THE

PROCEEDINGS AT LARGE

ON

THE TRIAL

OF

SAMUEL HOWE SHOWERS, Esq.

Lieutenant Colonel in the Service of the
Hon. East India Company.

AT

A GENERAL COURT MARTIAL,

HELD IN

FORT WILLIAM IN BENGAL,

Commenced the 15th Day of January, and concluded
the 15th Day of February, 1791.

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1796.

BRITISH MUSEUM

PROCEEDINGS

OF AN

European General Court Martial.

AT an European General Court Martial, held at Fort William, Bengal, *the* 15*th of* January, 1791, *by Virtue of a Warrant from Colonel* Alexander Mackenzie, *Commanding Officer of the Troops,*

PRESENT.

Colonel GEORGE DEARE, Preſident.

MEMBERS,

Lieut. Cols.	W. Jones,	Captains, Limond,
	Sears,	R. Philips,
	M. Wood.	D. Conyngham,
Majors,	Chatfield,	R. Ogle,
	T. Nicholls,	E. Scott,
	James Smith.	J. Rotton,
		T. Mordaunt.

Captain WILLIAM KIRKPATRICK,
Acting Judge Advocate General.

The general orders of the 8th of January, directing the Court to aſſemble, and the ſubſequent orders of the 12th, adjourning it to the 14th were read.

The Court having aſſembled on the 14th, in purſuance of the genera orders of the 12th, were adjourned till further orders, by command of Colonel Mackenzie, ſignified by Captain Fawcett, acting Fort Adjutant, by whom the Court were informed, that Lieutenant Colonel Showers (the Priſoner to be tried) was in confinement in the jail of Calcutta, but that the Sheriff had conſented to his being brought before the Court, and had accordingly iſſued the neceſſary orders to the keeper of the jail.

Soon after the adjournment, the Court were directed to re-aſſemble on this day, Saturday the 15th of January, by order of the Commanding Officer of the troops, communicated in the following letter from Captain Fawcett, acting Fort Adjutant :—

To the Members of the General Court Martial.

Gentlemen,

I beg leave to inform you, by order of the Commanding Officer of the troops, that the General Court Martial is to be aſſembled to-morrow morning, at ten o'clock, at the Preſident's quarters.

Be pleaſed to ſignify your having received the above information.

(Signed) W. D. Fawcett, Captain,
Acting Fort Adjutant.

The warrant of Colonel Alexander Mackenzie,

of

of the Preſident, and of the acting Judge Advocate General, being alſo ſeverally produced and read.

The Priſoner, Lieutenant Colonel S. Howe Showers was brought before the Court.

The names of the members being read over to the Priſoner, and he declaring at the queſtion put, that he had no exception to any of them.

The Preſident, Members, and Judge Advocate were duly ſworn.

The charge exhibited againſt the Priſoner was then read, and was as follows :—

CRIME.

Lieutenant Colonel S. H. Showers, ordered under arreſt by the commanding officer of the troops, on complaint of Lieutenant O'Halloran, ſtated in the following terms,—

I accuſe Lieutenant Colonel S. H. Showers, of having behaved in a manner unbecoming the character of an officer and a gentleman, in tamely ſubmitting to be charged, in a letter addreſſed to him by me, and read to him by Lieutenant Anbury, commiſſioned by me for that purpoſe, —with deliberate infamy of conduct, in having debauched the daughter of his moſt intimate friend when intruſted to his charge;—in afterwards marrying her to a man for whom he profeſſed the higheſt eſteem and regard,—and in continuing a private correſpondence with her after marriage.

I further ground the above charge againſt Lieutenant Colonel S. H. Showers, on his patiently ſuffering himſelf to be told, in the ſame, letter, that he was deaf to the calls of honour and juſtice, and that it was my intention to proclaim him to the world as a baſe coward, and an abandoned villian.

(Signed) JOSEPH O'HALLORAN, Lieutenant,
Adjutant of the fourth European Infantry.

Fort William,
Jan. 17, 1791.

A true Copy.

(Signed) PETER MURRAY, Adjutant General.

Queſtion by the Judge Advocate.

Q. Are you guilty of the crime laid to your charge or not?

Anſwer by the Priſoner—NOT GUILTY.

The Priſoner here deſired leave to addreſs the Court, and being permitted accordingly, read a paper, a copy of which follows :——

Gentlemen,

I attend here in obedience to the orders of the Commander in Chief; but, as I am by no means ready to meet a trial of a Court Martial, on the charge exhibited againſt me by Lieutenant O'Halloran, I muſt beg your indulgence, as to ſuch trial, until the firſt action brought againſt me, by the ſaid Lieutenant O'Halloran, in the Supreme Court of Judicature eſtabliſhed here,

ſhall

ſhall be heard and determined; as I am told, by my counſel, that a diſcloſure of evidence may be injurious to my defence in that action.

The Court being cleared to take the application of the Priſoner into conſideration, and doubts being ſtarted, touching the competency of the Court to try the Priſoner, it was reſolved to deliberate on the ſame previous to the further proceeding.

It being in the knowledge of the Court, that Lieutenant Colonel Showers is a ſupernumery officer, and that he is alſo, at this very time, in the cuſtody of the Sheriff, on a proceſs iſſued and executed upon him, in a civil ſuit, although permitted by the Sheriff to appear before them.

The queſtion was put, Whether the competency of the Court to try Lieutenant Colonel Showers, under the circumſtance of his being a ſupernumery officer, was involved in a doubt that required to be removed, previous to further proceeding?

When it was agreed in the affirmative.

The queſtion was put, Whether the competency of the Court to try Lieuteuant Colonel Showers, under the circumſtance of his being in the cuſtody of the Sheriff, on a proceſs iſſued and executed upon him, in a civil ſuit, but permitted by the Sheriff to appear before them, was involved in any doubt that required to be removed, previous to further proceeding?

When it was agreed in the affirmative.

It was therefore reſolved, that it is proper to ſubmitt the foregoing doubts of the Court to the Judges of his Majeſty's Supreme Court of Judicature; and that the acting Judge Advocate General do accordingly take the neceſſary meaſures for obtaining the opinions of the Judges on the above points.

The Court then agreed to adjourn till the ſaid opinions ſhall be obtained; and the acting Judge Advocate General was directed to appriſe the Preſident accordingly, to the end that the Court might be re-aſſembled.

The Priſoner being then called into Court, was informed, that the Court had judged it neceſſary to adjourn for ſome days, and that they, upon re-aſſembling, would take into conſideration the requeſt contained in the addreſs which he had delivered to them.

The Court then adjourned *ſine die*.

At an European General Court Martial, held at Fort William, the 21ſt day of January, purſuant to adjournment, Preſident and Members as before, with the exception of Captain Limond, reported ſick.

The acting Judge Advocate General informed the Court, that they had been re-aſſembled at his recommendation by order of the Preſident, and that he wiſhed the Court to be cleared, that he might ſtate to them what had been done in purſuance

ſuance of their orders, delivered to him at their laſt meeting.

The Court being accordingly cleared, the acting Judge Advocate General informed the Court, that although he had not been able to obtain the opinions of the Judges on the points which they had deemed it neceſſary to refer to them, yet he had thought it regular that the Court ſhould be re-aſſembled, in order that they might be made acquainted with what had heen done on the occaſion; and had applied to the Preſident accordingly.

The following letter addreſſed by the acting Judge Advocate General to the Commanding Officer of the troops, in purſuance of the Court's reſolutions at the laſt meeting, was then read and recorded, :—

To Colonel Alexander Mackenzie, Commanding Officer of the Troops.

SIR,

I am directed by the Preſident and Members of the European Court Martial, which aſſembled this morning in Fort William, for the trial of Lieut. Colonel S. H. Showers, to ſignify to you, for the information of the honourable board, that entertaining ſome doubts of their competency in the ſaid trial, they have judged it neceſſary to adjourn till they ſhall obtain, by means of the honourable board, the opinions of the Judges of his Majeſty's Supreme Court of Judicature,

Judicature, on the points which they apprehend may legally operate in bar to their jurisdiction in the present case.

The first part to be submitted to the board for reference to the Judges of the Supreme Court, turns upon the circumstances of Lieutenant Colonel Showers being a supernumerary officer, the Court having understood that his Majesty's Judges in England had given it as their opinion, that a half-pay officer is not amenable to the authority of a Court Martial; and not being perfectly clear whether a supernumerary officer might not be thought to come under the description of a half-pay officer, they deemed it most prudent to wait the solution of the question by the first judicial authority in the country, before they proceed in the exercise of their function, as a Court Martial, notwithstanding the Prisoner, Lieutenant Colonel Showers, had submitted, in the amplest manner, to their jurisdiction; for it occurred to the Court, on this head, that the submission of Lieutenant Colonel Showers to their jurisdiction, could not justify or bear them clear, if the assumption of that jurisdiction should be actually illegal.

It may be proper to observe on the occasion, for the satisfaction and information of the Judges of his Majesty's Supreme Court of Judicature.

That Lieutenant Colonel Showers was permitted

mitted to proceed to Europe on Furlough on half pay, on the 3d of November, 1788.*

That he was re-inſtated in the ſervice of the Honourable Company, in the year 1790, as appears by the orders of the Honourable Court of Directors, under date the 19th of March, 1790.†

That he accordingly returned to Bengal, in the year, 1790, on the Rodney Indiaman.

That he has, ever ſince his return to Bengal, either received or been entitled to receive monthly, from the Company, the half-pay and half-batta of his rank; namely, the half-pay and half-batta of a Lieutenant Colonel, in the ſame manner that all ſupernumeraries, on the Bengal eſtabliſhment, have been uſed to receive, for ſome time, the half-pay and half-batta of their reſpective ranks.

That Lieutenant Colonel Showers having been re-inſtated in the ſervice, by order of the Court of Directors, without prejudice to his rank, having, in conſequence of that re-inſtatement, returned to Bengal; and having, ſince his return, received half-pay and half-batta, as a ſupernumerary Lieutenant Colonel, is at this very time conſidered, according to the uſage of the ſervice in like caſe, as entitled to ſucceed to the firſt full Lieutenant Colonelcy that may become vacant; and that his appointment

* See article A page 11.

† See article B page 11 and 12.

to ſucceed to ſuch eventual vacancy would be regarded accordingly as a matter of courſe.

And finally, that his right to ſucceed to ſuch eventual vacancy is underſtood to be equal to the right which an officer, actually on the ſtrength of the army, has to be promoted in his turn.

The ſecond point in which the Court wiſh to have their doubts removed by the Judges of his Majeſty's Supreme Court of Judicature, ariſes out of the circumſtance of Lieutenant Colonel Showers being at this time a priſoner in the jail of Calcutta, on a proceſs iſſued on a civil ſuit, and executed upon him after he had been put under arreſt by the commanding officer of the troops. It is to be obſerved, that the Sheriff has conſented to allow Lieutenant Colonel Showers to attend the Court Martial, under the cuſtody of a military officer deputed to bring him before them, and that Lieut. Colonel Showers did accordingly come before them this morning and put himſelf upon his trial, without offering any objection to the juriſdiction of the Court: but the Court, notwithſtanding theſe circumſtances, are doubtful, whether his preſent confinement in the jail of Calcutta, on a proceſs iſſued and executed againſt him in a civil ſuit, may not hereafter be conſidered to have been a legal bar to their proceeding on his trial.

They therefore earneſty wiſh to obtain, as early as may be poſſible, the opinion of his Majeſty's Supreme Court of Judicature, for their

their guidance, in a caſe of ſo much difficulty.

I have the honour to be,

SIR,

Your very obedient humble ſervant,

Fort-William, (Signed) W. KIRKPATRICK,

Jan. 15, 1791. Acting Judge Advocate General.

[APPENDIX A.]

Minutes of counſel in the ſecret and military department, the 3d of November, 1788.

Reſolved, That Lieutenant Colonel S. Howe Showers be permitted to proceed to Europe on furlough, on half-pay, and to take his paſſage in the Honourable Company's ſhip, William Pitt.

A true Copy.

(Signed) E. HAY, Secretary to the Government.

[B.]

Extract of a letter from the Court of Directors, to the Governor General in council, dated March 19, 1790.

We have permitted the following military officers to return to their rank in our ſervice, at your Preſidency, viz.

Lieutenant Colonels, W. Elliot,
Samuel Howe Showers,
Edward Rawſtorne,
William Cooke.

Captains,	Thomas Welſh,
	W. Macintoſh,
	Thomas Edwards,
	Herbert Lloyd,
	Frederick Barton.
Lieutenants,	Peter Burrows.
	James Coſmo Gordon,
	Peter Tolfrey,
Enſign	Joſeph Blennan
Lieutenant fire-worker,	Joſeph Budworth.

A true Extract.

(Signed) E. HAY, Secretary to the Government.

The following is the anſwer received by the Judge Advocate General to the preceding letter.

To Captain William Kirkpatrick, officiating Judge Advocate General.

The commanding officer of the troops has directed me to acquaint you, for the information of the Preſident and members of the General Court Martial, that their reference reſpecting the doubts they entertain of their competency to proceed on the trial of Lieutenant Colonel Showers, as conveyed in your letter of the 10th, and received on the 16th, was ſubmitted, with its incloſure, to the members of the Supreme Court, on the 17th inſtant, together with copies of Earl Cornwallis's general orders, under date the 4th of July, 1787, and 7th of April, 1788, as being very much in point to the preſent queſtion.

Yeſterday

Yeſterday noon I had the honor of receiving the board's anſwer to the ſaid reference, and Colonel Mackenzie has directed me to tranſmit a copy of it to you, to be laid before the General Court Martial together with copies of the two orders above mentioned.

I have the honor to be,

SIR,

Your moſt obedient ſervant,

(Signed) PETER MURRAY,

Adjutant General's Office,

Jan. 19th. 1791.

To Lieutenant Colonel Murray, Adjutant Geneaal,

SIR,

I have been honoured with your letter of the 17th Inſtant, and have ſubmitted it with its incloſure to the members of government, who have directed me to acquaint you for the information of the Commanding Officer of the Troops, that the point ſtated by the acting Judge advocate General, in his letter of the 15th cannot be properly referred to the Judges of his Majeſty's ſupreme court of judicature.

I have the honor to be,

SIR,

Your moſt obedient humble ſervant,

(Signed) E. HAY, Sub Secretary.

Council Chamber,

Jan. 18th 1791.

General Orders by Earl Cornwallis, July 4th, 1787,

Lord Cornwallis has been ſorry to hear that

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ſeveral irregularities have been committed of late by some of the ſupernumerary Officers who reſide in the neighbourhood of the Cantonements of Barrampore, and it has given him particular concern to learn that they have in ſome inſtances ſo far forgot the rules of their profeſſion, as to behave with diſreſpect to the commanding Officer of the ſtation. Acts of violence and improprieties of behaviour, not only injure the private reputation of gentlemen in the company's ſervice, but in the eyes of the natives, they reflect diſcredit upon the national character; his Lordſhip therefore directs, that the commanding Officers of all the ſtations and detachments of the army, ſhall keep the ſame watchful eye upon the co duct of the ſupernumerary Officers, who may reſide within, or adjoining the limits of their reſpective commands, as upon that of the Officers on the effective ſtrength of the Troops, and if any of thoſe Officers ſhall in their opinion deviate ſo far from the proper line of their public puniſhment; he deſires that they may be ſent under an arreſt, with the neceſſary witneſſes to Fort William, where they will be tried by a General Court Martial. His Lordſhip thinks it alſo proper upon this occaſion to ſignify to all commanding Officers of ſtations and detachments, that as the honor and intereſt of the nation is deeply concerned in the regular adminiſtration of juſtice, he will hold them reſponſible, that no obſtruction ſhall be given within the limits of their reſpective commands to the civil Officers acting under the authority of

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the Supreme Court of Judicature, or the Courts of Adaulut, in the execution of writs, ſummonſes, or of any other legal part of their duty, and theſe Courts of Juſtice will be informed that their executive officers, will, upon application to the military commanding officer, be certain of meeting with protection.

(Signed) PETER MURRAY, Adjutant General.

General Orders by Earl Cornwallis, April 7, 1788.

Proceedings of an European General Court Martial, held by order of John White, Eſq. Colonel commanding the Station of Dinapore, Wedneſday, the 25th of March, 1788.

CRIME.

Enſign Macleiſh put under an arreſt by order of the Commander in Chief, on the complaint of Mr. Adam Auſtin, of Bankipore, for behaviour unbecoming the character of an officer and a gentleman, by the commiſſion of a fraud on the ſaid Mr. Adam Auſtin.

(Signed) PETER MURRAY, Adjutant General.

Fort William,
Adjutant General's Office,
Feb. 7, 1788.

SENTENCE.

The Court having maturely conſidered the evidence in ſupport of the proſecution, as alſo what the Priſoner has offered in his defence, are of opinion

opinion that he is guilty of the crime laid to his charge, viz. behaving unbecoming the character of an officer and a gentleman; which being a breach of the twentieth article of the twelfth ſection of the articles of war, they ſentence him to be diſcharged the Honourable Company's ſervice.

(Signed) CHARLES WARE,
Lieutenant Colonel and Preſident,

(Signed) JAMES PRINGLE,
Deputy Judge Advocate General, a ſupernumerary officer.

Confirmed (Signed) CORNWALLIS.

The Court diſappointed in the expectation of obtaining the opinion of the Judges of his Majeſty's Supreme Court of Judicature in the preſent cauſe, proceeded to conſider what further ſteps it behoved them to take on the occaſion; when it was agreed,

That the opinion of the acting Judge Advocatſt General ber equired on the two points ſtated by him, in his letter to the commanding officer of the troops.

The acting Judge Advocate General having been accordingly called, addreſſed the Court as follows:—

Mr. Preſident and Gentlemen,

Conceiving under the circumſtances ariſing from the Honourable Board declining to refer your doubts, relative to your juriſdiction in the preſent cauſe, to the Judges of his Majeſty's Supreme Court of Judicature, that they would probably do me the honour

honour to reſort to my opinion on the points upon which theſe doubts reſt, I have not only conſidered the matter with the cloſeſt attention myſelf, but alſo endeavoured to obtain the beſt legal advice on the ſubject.

I am, therefore, prepared to deliver a decided opinion on both the points, by your order in my letter to the commanding officer of the troops; and I ſhall be exceedingly happy ſhould my ſentiments, ſupported as they are by legal authority of unqueſtionable credit, have ſuch weight with you as to remove your preſent doubts, ſince you are not to be told that the intereſt of the ſervice is moſt materially connected with the firſt of thoſe doubts, and cannot but ſuffer eſſentially ſo long as it continues to be entertained.

The firſt of theſe doubts is ſtated to turn upon the circumſtance of Lieutenant Colonel Showers being a ſupernumerary officer; for the Court underſtanding that half-pay officers in the King's ſervice were not conſidered as amenable to martial laws, apprehended that a ſupernumerary officer might poſſibly be thought to come under the deſcription of a half-pay officer.

Is is certain that ſince the Mutiny act of George III. anno 29, chap. ii. half-pay officers are not amenable to martial laws; ſo that if the ſituation of a ſupernumerary officer on the Bengal Eſtabliſhment, or a ſupernumerary officer in the circumſtances of a priſoner, could be proved the ſame with

or ſimilar to that of a half-pay officer in His Majeſty's ſervice, the incompetency of the Court to try the Priſoner, would be clearly eſtabliſhed.

But the ſituation of theſe two deſcriptions of officers are ſo far from being the ſame, or from being ſimilar to one another, that they are on the contrary, altogether diſſimilar.

The mutiny act of George III. anno 29, (juſt referred to) ſubjects to martial law, "*All perſons who are or ſhall be commiſſioned, or in* HALF-*pay as officers.*" It is admitted, that an half-pay officer, though ſaid to be in pay, is not in *pay* any more than in *commiſſion, an officer*, his commiſſion having expired, when the corps to which it attached him was reduced, and his pay being no other than a re-compenſation or penſion for paſt ſervice. It is under this conſtruction of his ſituation, and of the terms of the new Mutiny Act, that the half-pay officers are no longer held amenable to martial law.

It is of importance on this occaſion, to obſerve, that although half-pay officers are no longer amenable to martial law, yet *brevet officers* are in fact, though inexpreſſly declared to be ſo by the act already quoted, for they, though not *in pay*, are *commiſſioned as officers.* The terms of this clauſe of the act, were accordingly ſtrangely argued againſt in the Houſe of Peers, ſome of the Members of which, as the Earl of Sandwich, Marquis Landſdown, and others, *are brevet officers;* but

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the claim nevertheleſs paſſed, the Lord Chancellor, remarking, that ſuch brevet officers, if they did not like to be ſubject to martial law, might reſign their commiſſions.

Now if a brevet officer, who never in his life perhaps, has done duty as an officer, is amenable to martial law, though *not in pay*, does it not follow, that a ſupernumerary officer on the Bengal Eſtabliſhment, whether he receives whole pay or half pay or no pay at all in *commiſſion* as an officer, muſt of neceſſity be alſo ſubject to martial law.

There can be no doubt but ſupernumerary officers of every deſcription, are in commiſſion as officers. The officer who having proceeded to Europe, (whether on half-pay, furlough, or after reſignation of the ſervice, is immaterial) is permitted to return to his rank on this Eſtabliſhment, is obliged I believe, to take out a commiſſion from the office of the Secretary to the Court of Directors, in the event of his having reſigned the ſervice, previous to his returning to Europe. I fancy it is conſidered as abſolutely neceſſary, that he ſhould obtain ſuch a commiſſion; if he ſhould have retired on furlough or half-pay, I believe the ſame, neceſſity may not be thought to exiſt, his original commiſſion, or the commiſſion which he had when he left the country, being deemed to be ſtill in force; at all events, he holds on his return either a commiſſion alike recognized by Government and his brother officers, and is

therefore unqueſtionably an officer in commiſſion.

I ſaid that ſupernumerary officers *of every deſcription*, were officers *in commiſſion*, I expreſſed myſelf thus, becauſe the ſupernumerary officers of this eſtabliſhment are of two or three different deſcriptions, ſome are unpoſted, as Lieutenant Colonel Showers, and Lieutenant Colonel Rawſtorn, others are poſted to corps doing the duty of the rank they hold in the army. But they are all equally *in commiſſion* as officers, and equally *in pay*, alſo, as ſuch, it being perfectly immaterial to the preſent queſtion, what the quantum of the pay is.

Any determination therefore, that ſhall pronounce ſupernumerary officers to be unamenable to martial law, muſt embrace alike all deſcriptions of ſupernumerary officers, ſince all are in *commiſſion* and in *pay as officers*. It is of no conſequence at preſent, that the poſted ſupernumerary is muſtered, and that the unpoſted ſupernumerary *is not poſted*. Before the alteration of the Mutiny Act in the 29th of the preſent reign, this diſtinction might have been contended for, but it has ceaſed to be of any importance ſince that time, the law now ſubjecting all theſe to military juriſdiction who are in *commiſſion* or *in pay as officers*, inſtead of thoſe only, (as was enacted in the 27th of George III.) who were muſtered, or in pay as officers.

It was this laſt argument that preſſed upon my mind, when I ventured to hint how materially the intereſts of the ſervice were connected with the preſent queſtion. I only hinted at the importance of the diſcuſſion, becauſe it was not for me to point out to the Court, and eſpecially to a Court compoſed like the preſent one, how deſtructive it muſt prove to military ſubordination and diſcipline, ſhould an idea be diffuſed throughout the army, that ſupernumerary officers (many of whom are doing duty with corps of the army) are not amenable to martial law.

Although I am willing to hope, that I have already urged enough on this head to ſatisfy the Court of the lawfulneſs, yet I beg to be permitted to ſay a word or two, in ſupport of the reaſonableneſs of its juriſdiction in the preſent caſe.

I will confine what I mean to offer on this point, to the caſe of an *unpoſted* ſupernumerary officer recently returning from Europe to his rank on the eſtabliſhment; becauſe, if I can ſhew the reaſonableneſs of ſuch an officers being amenable to martial law, it will not be diſputed in the inſtance of the *poſted* ſupernumerary: Beſides the former is the caſe immediately in queſtion.

Let me then obſerve, that an officer upon his return to this country, becomes not only an officer *in commiſſion* and *in pay*, but entitled alſo to ſucceed, if he ſhould be the ſenior ſupernumerary of his rank, to the firſt vacancy that

may

may happen in that rank or otherwiſe; according to his ſtanding, his right in this caſe is as poſitive as that of the ſenior officer of any rank on the actual ſtrength of the army would be to ſucceed to a vacancy happening in the rank next above him, ſuppoſing no ſupernumerary of this laſt rank to be in queſtion; thus the title of Lieutenant Colonel Showers, to ſucceed to the firſt vacancy that may occur in the rank of Lieutenant Colonel, is as poſitive as that of Major Nicholls would be to ſucceed to ſuch a vacancy, were there no Lieutenant Colonel ſtanding in his way.

This right is ſo well underſtood among ourſelves, and ſo thoroughly acknowledged by Government, that it is conſidered as inviolable by the latter, as any other military title or pretenſion whatever, and any ſupernumerary officer who ſhould be ſet aſide or ſuperceded when it came to his turn to be *admitted upon the ſtrength*, (excepting by the operation of the ſentence of a Court Martial) would think himſelf, and be univerſally thought, as much aggrieved as an officer on the ſtrength, who ſhould be ſet aſide or ſuperceded, without a previous Court Martial, when it came to his turn to be promoted.

The rights of a ſupernumerary officer, therefore to promotion and ſucceſſion, are as well ſecured as thoſe of an officer on the ſtrength, nor can he any more than the latter, be legally diſmiſſed the ſervice in this Country, excepting by the ſentence of a Court Martial. If then a ſupernumerary

pernumerary officer cannot be legally ſet aſide, or ſuperceded and diſmiſſed, unleſs by the ſentence of a Court Martial, muſt he not of neceſſity be amenable to martial law, and ſhould we not be guilty of a contradiction, were we to maintain that although a ſupernumerary officer cannot be ſuperceded or caſhiered, excepting by the ſentence of a Court Martial, yet he is not amenable to martial law for military offences.

How long this doubt reſpecting the power of a Court Martial to try a ſupernumerary officer has exiſted, I know not, it is evident from orders, Lord Cornwallis's orders, which have been read to you, that his Lordſhip entertained no doubts on the point, and it is as certain I believe, that the General Court Martial which caſhiered Enſign Macleiſh, a ſupernumerary officer, had no ſcruples on the occaſion, reſpecting the juriſdiction; I am aware that neither Lord Cornwallis's opinion over the judgment of any Court Martial, can be ſaid to give the ſtamp of legality to ſuch a proceeding as that at preſent under conſideration, but it is to be recollected, that I have been talking of the reaſonableneſs, not of the lawfulneſs of your juriſdiction. I have now diſmiſſed the firſt of the two points propoſed for conſideration, and ſhall not detain you long Gentlemen, by my remarks on the ſecond. I indeed feel ſo little difficulty on the occaſion, owing to the confidence which I derive from being in poſſeſſion of the decided opinion of the firſt law

authority

authority in this Country on the ſubject, that I have no heſitation in aſſuring you:—

That the Sheriff of Calcutta having conſented to allow Lieutenant Colonel Showers to attend the Court under the cuſtody of an officer deputed to bring him before them, the Court can while the Sheriff is ſo conſenting, legally compel him, if neceſſary, to appear before them, ſince with that permiſſion of the Sheriff, Lieutenant Colonel Showers is is to be conſidered as much at liberty for the purpoſe of attending this Court, as if he were under a military arreſt *at large*, reſiding in his own houſe inſtead of a jail.

And furthermore, that the circumſtances of Lieutenant Colonel Showers, being in the jail of Calcutta, on proceſs iſſued in a civil ſuit, and executed upon him after he had been put under an arreſt on the charge that has been exhibited againſt him, is no legal bar to this Court proceeding to try him, when he appears before them, whether ſuch appearance be voluntary or by the compulſion of military authority, eſpecially if the Court be aſſured of the conſent of the Sheriff, to his being brought up from day to day, until his trial ſhall be cloſed.

On this ground of objection, therefore, all that I conceive to be neceſſary, is, that the Court do carefully aſcertain from day to day during the trial, that the Sheriff is conſenting to the Priſoner's being brought from jail before them.

The

The Court taking into conſideration, the circumſtances of their having failed in their application to obtain the opinion of the Judges on the points which they wiſhed to have been referred to them, and the arguments of the Acting Judge Advocate General, delivered in conſequence of that failure, agree to proceed on the trial of the Priſoner Lieutenant Colonel Showers.

The Court then deliberating on the application of the Priſoner, recorded on the proceedings of laſt meeting, and it not appearing to them how the diſcloſure of the evidence upon the preſent trial, can be injurious to his, the Priſoner's defence in the civil action pending between him and Lieutenant O'Halloran, reſolve that the Priſoner's requeſt ought not to be complied with.

The Court was then opened, and the Priſoner called in, and informed by the acting Judge Advocate General accordingly.

The Judge Advocate then declared, that it was his intention *to confine the proof of the charge to the time, which is intervened between the delivery of the meſſage or letter* referred to in the charge, which was about noon of the 6th of January laſt, *and the Priſoner being put under arreſt*, which was in the courſe of the following morning.

The Sheriff's order to the keeper of the jail, directing him to deliver the Priſoner Lieutenant Colonel Showers, to Captain Fawcett, for the purpoſe of his being brought before the Court,

was produced by Captain Fawcett, and ordered to be entered in this place.

To Joſeph Da Cruz.

SIR,

The bearer of this, Captain Fawcett, is the officer ſent by the Court Martial, to take charge of Lieutenant Colonel Samuel Howe Showers, to whom you are required to deliver him.

I am,

SIR,

Your Moſt Obedient Servant,

Sheriff's Office, C. F. MARTYN.

January 14, 1791.

The Priſoner then delivered into the Court the following addreſs.

Gentlemen,

In addition to my former reaſon, for not being ready to take my trial at this Court Martial, I have to add, that the delay of the trial in the Supreme Court reſts wholly with Mr. O'Halloran, and that if he chuſes, he may bring on the ſame in the courſe of a few days from this day, obtaining the conſent of the Judges.

January 21*ſt*, 1791.

The Court being cleared to take the ſame into conſideration, it was reſolved, that it contained nothing that ought to induce them to delay the proceedings.

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The Court being then opened, and the Priſoner called in, he was informed accordingly.

Upon which the Priſoner delivered in the following proteſt, which was read, and ordered to be entered in this place.

PROTEST OF THE PRISONER.

" I attend here, that I may not incur the imputation, charge, or appearance of diſobedience of any military orders or authority, proteſting at the ſame time by and with the advice of my counſel, that I do not know, and cannot acknowledge the authoriry by which I may be ſaid to have been ordered here to be legal. I do hereby formally proteſt againſt this General Court Martial, and all and every, and ſuch of the members compoſing and forming the ſame, and againſt all and every of the proceeding and proceedings heretofore had, or hereafter to be had by this Court Martial, relative to a certain charge inſtituted againſt me by Lieutenant O'Halloran, which charge is in the words following to wit, *(reciting the charge* pages 3 and 4.*)*

Now I do proteſt as aforeſaid, againſt this Court Martial, and all and each of the members compoſing and forming the ſame, and againſt all and every the proceeding and proceedings heretofore had, and hereafter to be had by and in this Court Martial, relative to the above charge, and every matter and thing therein contained. And firſt, I do proteſt as laſt aforeſaid, becauſe ſuppoſing and not allowing this Court Martial to

be legal, the whole of the evidence neceſſary for my defence to the above charge is not ready, nor am I, nor can I be prepared to produce ſuch evidenee at preſent. And ſecondly, becauſe an action at law brought againſt me by the ſaid Lieutenant O'Halloran, relative to the matters, or at leaſt to the principal matter contained in the above charge, is now depending in the Supreme Court of Judicature, at Fort William in Bengal, and the diſcloſure of evidence upon this court, may prove highly detrimental and injurious to me, if ſuch diſcloſure ſhould be made previous to the trial of the ſaid action at law; and as public opinion and prejudice may be ſtrong againſt me, until the fact and true circumſtance of the caſe ſhall be known to the world by the ſaid trial at law, which the ſaid Lieutenant O'Halloran, or his attorney, have it in their power very ſpeedily, or in the courſe of a few days to bring about; and thirdly, becauſe I am not at preſent muſtered on the ſtrength of the united Eaſt India Company's military ſervice, and as I do not at preſent receive full batta, and allowances as an officer in the ſaid united Company's military ſervice, and am accounted as a ſupernumerary, and as I am now in cuſtody of the civil power as aforeſaid, at the ſuit of Lieutenant O'Halloran, upon the ſame matters, at leaſt the principal matter contained in the ſaid charge. I am therefore adviſed by my counſel, that the Court Martial in this ſettlement of Fort William, being allowed and permitted, by and under the acts of

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Parliament made and paſſed for ſuch particular purpoſe, and which, as I am adviſed, are therefore to be conſtrued ſtrictly and legally; and that I for the ſeveral reaſons laſt aforeſaid, am not at preſent ſubject to military law, according to the ſubſtance and words of ſuch Act of Parliament, and therefore this Court Martial is as to me illegal, and does not, in the preſent inſtance, poſſeſs any power or powers to try me by military law on the above or any other charge. For all ſuch reaſons aforeſaid, I do proteſt as laſt aforeſaid, againſt this General Court Martial, and all, every, and each of the members compoſing and forming the ſame, and againſt all and every the proceeding and proceedings heretofore had and hereafter to be had, by and in this Court Martial, to the above charge, and every matter and thing contained therein; and for all and every loſs and loſſes, damage and damages, coſt and coſts, expence and expences, which ſhall or may happen to ariſe, occur, or be ſuſtained by me in conſequence of this Court Martial, and every act and proceeding thereof.

In witneſs whereof I have ſet my hand, this 15th day of January, 1791.

(Signed) S. H. SHOWERS.

The Court being cleared to take the ſame into conſideration, notice that the proteſt now delivered in, is dated the 15th of January; but being only juſt preſented for the firſt time, deem the inaccuracy of no importance.

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The Court then reſolved, that Lieutenant Colonel Showers having already ſubmitted to the juriſdiction of the Court, and the Court having already taken the proper means for aſcertaining their competency to try the Priſoner under the moſt material points ſtated in the proteſt, they deem themſelves ſufficiently authorized to proceed on the trial, and agree to proceed accordingly.

The Court being opened, the Priſoner was called in, and informed accordingly by the Judge Advocate.

The Priſoner requeſting permiſſion to retire for a few minutes, to write a note; his requeſt was complied with; returning into the Court, he delivered the following addreſs:—

Gentlemen,

May I requeſt your particular indulgence, as it is the ſenſe of the Court to proceed, that they will adjourn until Tueſday next.

The Court being cleared to take the ſame into conſideration, it was reſolved, that the Priſoner's requeſt ought not to be complied with; but that he ſhould be informed, that when he came upon his defence, he would obtain, according to cuſtom in the like caſes, every neceſſary indulgence, as to time, for preparing the ſame.

The Court being opened, and the Priſoner being called in, the Judge Advocate informed him accordingly.

Lieutenant

Lieutenant O'Halloran was ſworn and examined, after being appriſed of the time which the Judge Advocate had thought it neceſſary to limit the proof of the charge. *(Vide page 25.)*

Queſtions by the Judge Advocate

Q. Be pleaſed to inform the Court what you know relative to the charge exhibited againſt the Priſoner?

A. To enlarge upon the unmerited injuries I have ſuſtained from the Priſoner, would be to take up the time of the Court unneceſſarily and improperly; ſuffice it, therefore, briefly to ſtate, that after repeated applications for reparation of the wrongs I had ſuſtained from him, which I had vainly ſought from his honour and juſtice, on Tueſday, the 6th of January laſt, I wrote him the letter on which the charge is founded, as a laſt effort. He heard, as I have reaſon to believe, the ſaid letter read to him, WITH CALM COMPOSURE, *and heard alſo the conſequences which would enſue, with perfect indifference.*

At three o'clock in the afternoon of the ſame day, finding that he was playing with me, and was only adding inſult to injury, I applied to the Commanding Officer of the troops, through the Adjutant General, to have him put under an arreſt, which was accordingly complied with on Friday morning, the 7th of January. The letter which I mentioned, I gave in charge to a friend, whom I deſired to read it

to

to the Priſoner in the preſence of another gentleman.

Q. At what hour on the 6th of January laſt, did you deliver the letter in queſtion to the gentleman whom you charged to read it to the Priſoner?

A. About ten in the forenoon.

Q. Who was the gentleman you commiſſioned to read the letter?

A. I commiſſioned Enſign Anbury to read the letter to the Priſoner, and got Mr. Strettle to accompany him for the purpoſe of hearing him read it.

Q. You ſaid you underſtood, or have reaſon to believe, that the Priſoner heard the conſequences which would enſue, with perfect indifference; what conſequ nces do you mean, and what were they to enſue?

A. The conſequences alluded to were, that I would immediately follow up the reading of that letter with a General Court Martial.

Q. You have ſaid, that finding the Priſoner was playing with you, and wantonly adding inſult to injury, you applied to the Commanding Officer of the forces, through the Adjutant General, to have him put under an arreſt; inform the Court what you mean by his playing with you, and adding inſult to injury?

A. By his repeatedly refuſing to uſe his endeavours to procure a warrant to be withdrawn, that had been taken out to arreſt my perſon on

the

the preceding Tueſday, the 4th of January, by which I was compelled to wander about Calcutta, in diſguiſe, to avoid the purſuit of the Sheriff's officers; and which warrant continued in force unti lSaturday the 8th of January.

The Priſoner being aſked, if he had any queſtion to put to the witneſs, replied, that he would defer interrogating him till he came upon his defence.

The witneſs was ordered to withdraw; but, on a motion made, was permitted to remain in Court, upon the ground of his ſtanding in the circumſtances of a proſecutor.

Enſign Anbury was ſworn and examined.

Queſtions by the Judge Advocate.

Q. Were you, on the 6th of January laſt, commiſſioned by Lieutenant O'Halloran to wait on and read to the Priſoner, Lieutenant Colonel Showers, a letter addreſſed by the ſaid Lieut. O'Halloran to the Priſoner?

A. I was.

Q. Did you accordingly upon that wait on the Priſoner, and communicate to him the contents of the ſaid letter?

A. I did.

Q. At what hour, on the 6th of January laſt, did you receive the letter in queſtion from Lieutenant O'Halloran, and at what hour did you read the ſame to the Priſoner?

A. I received the letter about half after ten in the

morning of that day, and it was about half paſt eleven when I waited upon the Priſoner, and read it to him.

Q. Do you recollect well the contents of the letter?

A. Perfectly well.

Q. Was the Priſoner accuſed, in that letter, of deliberate infamy of conduct, and of having debauched the daughter of his moſt intimate friend when intruſted to his charge, and afterwards marrying her to a man, for whom he profeſſed the higheſt eſteem and regard, and with continuing a private correſpondence with her (the wife of Lieutenan O'Halloran)?

A. To the beſt of my recollection the Priſoner was charged in nearly the terms of the queſtion.

Q. Was the Priſoner told in the letter which you read to him, that he was deaf to the calls of honour and juſtice, and that it was the intention of Lieutenant O'Halloran to proclaim him to the world, as a baſe coward, and an abandoned villain?

A. He was.

Q. Did you read the letter ſo diſtinctly and audibly, as to be ſatisfied that the Priſoner muſt have heard and underſtood its contents?

A. I did, truly.

Q. How did the Priſoner receive the communication?

A. By obſerving, it was very ſtrange or extraordinary.

ordinary. To the beſt of my recollection theſe were his very words.

Q. Did the Priſoner *tâmely ſubmit* to the communications of the letter wherein he was charged with deliberate infamy of conduct, and with having debauched the daughter of his moſt intimate friend when entruſted to his charge—with afterwards marrying her to a man for whom he bore the higheſt eſteem and regard—and with continuing a private correſpondence with her?

A. Perfectly ſo.

Q. Did the Priſoner ſuffer *patiently* the communication of that part of the letter, wherein he was told, that he was deaf to the calls of honour and juſtice, and that it was the intention of Lieutenant O'Halloran, to proclaim him to the world, as a baſe coward and an abandoned villain?

A. According to my judgment he did.

Q. Did the Priſoner deſire you to deliver any reply, or ſend by you any verbal or written anſwer to Lieutenant O'Halloran's letter or meſſage?

A' None whatever.

Q. Did the Priſoner attempt to exculpate himſelf from the charges contained in the letter?

A. By no means.—He never went upon the ſubject, obſerving no more than what I have ſtated before, that it was very ſtrange, or extraordinary.

Q. Did you aſk the Priſoner for any anſwer?

A. I aſked him what he wiſhed I ſhould ſay to Lieutenant O'Halloran on the ſubject.

Q. What reply did he make to this?

A. I obtained none; upon which I left the houſe, after previouſly informing him, however, that whatever ſteps he might think it neceſſary to adopt, ſhould be taken by him immediately, as it was Lieutenant O'Halloran's determination to apply immediately on my return, to have him, the Priſoner, brought to a Court Martial, or words to that effect.

Q. Did the Priſoner make no anſwer to this determination?

A. Not any.

Q. Had the Priſoner time to give an anſwer to this laſt mentioned intimation of yours before you left the houſe?

A. I ſhould think he had.

Q. Was Mr. Strettle preſent during the whole of your being with the Priſoner on this occaſion?

A. The whole time.

Q. Did you, or did Mr. Strettle in your hearing, make uſe of any other arguments than thoſe you have already ſtated, to induce the Priſoner to return an anſwer to Mr. O'Halloran's meſſage?

A. Nothing further; unleſs it was my aſking Lieutenant Colonel Showers, whether I ſhould read the letter again, and whether he thoroughly underſtood it? To which he replied, that there

was

was no occaſion to read it again, as he underſtood it, or words to that effect.

The Priſoner being aſked, whether he had any queſtion to put to the witneſs? Replied that he wiſhed to defer interrogating him until he came upon his defence

Enſign Anbury was deſired to withdraw.

Mr. Strettle was ſworn and examined.

Q. Were you preſent on the 6th of January laſt, when Enſign Anbury communicated to the Priſoner the contents of a letter addreſſed by Lieutenant O'Halloran to the Priſoner?

A. I was.

Q. Did you accordingly hear Enſign Anbury read that letter to the Priſoner?

A. Enſign Anbury and I went together to Lieutenant Colonel Showers's houſe. We walked up ſtairs, and found him walking about in his hall. Upon entering the hall, Colonel Showers came up to us; and Mr. Anbury addreſſed him, and ſaid, that he came to him for the *fourth and laſt time.* Colonel Showers pauſed; upon which Mr. Anbury aſked him, whether he had any particular anſwer to make to him? The Colonel, with ſeeming indifference, and eaſe of manners, avoided anſwering the queſtion, and walked with us towards a private room, meaning to introduce us into it. Upon which Mr. Anbury obſerved to him, that the nature of his buſineſs did not require any privacy, for that he had come to him,

him, Colonel Showers, to read a letter addreſſed to him by Mr. O'Halloran, which letter he had deſired him, Mr. Anbury, to read to him Colonel Showers, upon this we returned into the middle of the room, when Mr. Anbury produced the letter, and read it to him with an audible voice. Colonel Showers, upon the letter being read to him, with ſome ſort of confuſion, as it appeared to me in his countenance, ſaid it was very extraordinary. He repeated the word *of very extraordinary* once or twice, upon which Mr. Anbury aſked him whether he had any thing to ſay to him. After a ſhort pauſe, his reply was by putting a queſtion, and aſking Mr. Anbury whether he had received a letter from him, Colonel Showers, that morning, namely, the morning after the 6th of January, Mr. Anbury replied he had not. On which Colonel Showers with a great degree of apparent ſurpriſe, called out *koon hai!** and as I ſuppoſed, for I did not underſtand the language thoroughly, aſked who had carried the letter which he had given that morning, the Witneſs upon recollection, begged leave to ſay, that he was inclined to believe, that the Priſoner had aſked the queſtion, who had carried the letter which he had given that morning, in Engliſh as well as Bengallic, to which queſtion I heard no reply. Mr. Anbury then ſuppoſing that the letter referred to by Colonel Showers, might contain the anſwer he wiſhed to obtain, aſked the Priſoner the purport of that letter. The anſwer he obtained, was, that he had ſent a letter to Mr.

* *Koon hai!*, the Indian terms uſed for calling a ſervant; literally "*who's there?*"

Mr. Greene, and laid horſes for the purpoſe, for bringing Mr. Greene to town. Mr. Anbury then ſaid, " Poh! Sir, what has this to do with the ſubject in hand?" The Colonel replied, " Did you not aſk me the purport of that letter?" Mr. Anbury ſaid, " I did," but added, " Colonel is this all the anſwer you have to make me?" You will be brought to a Court Martial, and the conſequences will be fatal to you." The Colonel made no reply to this, but walked about in that eaſy manner which he had done during the whole of the converſation. Some time after Mr. Anbury had read the letter, he aſked him again, whether he had heard it, and whether he ſhould read it a ſecond time? The Colonel replied " No," and added, " the expreſſion of it was very extraordinary," the ſame he had uſed on firſt hearing it read. This laſt queſtion in the order of time, as far as I can recollect, put by Mr. Anbury to Colonel Showers, before the Colonel had aſked him, whether he, Mr. Anbury, had received a letter from him, the Priſoner, that morning. When Mr. Anbury found that nothing further was to be obtained from Colonel Showers, he after a conſiderable pauſe, formally addreſſed him, and declared to him, that he thought it was fair and his duty to inform him, Colonel Showers, that it was Mr. O'Halloran's intention, immediately to prefer charges againſt him, for the purpoſe of bringing him to a Court Martial, and that therefore, if he Colonel Showers, had any particular meaſures to take, or anſwer to make, he muſt do it immediately, as

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otherwiſe the opportunity would be loſt. After having ſaid this, he ſtood in the room ſufficient time to allow Colonel Showers, power of recollection, and to make any anſwer that he might think proper, and afterwards, as we were going out of the room, expreſſing in general terms, that he had better give an anſwer, we walked away.

The witneſs begs leave to remark, that all what he has delivered in evidence, he has ſpoken with the recollection of a perſon whoſe mind could not but have been highly impreſſed with the accuracy and the recollection of the circumſtances diſcloſed in his teſtimony; at the ſame time, however, that he has delivered the ſubſtance of the whole tranſaction, he may poſſibly have not delivered the very words throughout. If the letter was produced which was read upon that occaſion, he could identify it, becauſe, before it had been placed out of his ſight, he put a mark upon it (his initials) with a pencil, upon his return to Calcutta, and before the eraſure of that mark made by the pencil, he wrote his.

Q. At what hour on the 6th of January laſt, did you hear the letter in queſtion, read to the Priſoner by Mr. Anbury?

A. The letter was written at ten o'Clock, immediately after which, and Mr. Anbury's receiving his inſtructions from Mr. O'Halloran, we proceeded from Mr. Ledlie's houſe at Chaundpaul Ghaut, to my own houſe, where I ordered my phaeton, and without any loſs of time, proceeded with Mr. Anbury to Colonel Showers's, ſo that it could not, I think,

think, be later than between eleven or twelve o'clock, when we arrived at the Colonel's.

Q. Do you recollect generally the terms of the letter?

A. I think that after premiſing that he, (the Colonel) had debauched the daughter of his deareſt friend, aud afterwards married her to an officer and a gentleman, and ſubſequent to the marriage, continued his criminal correſpondence with her, after ſuch a train of miſconduct, had refuſed him the ſatisfaction which he had demanded of his hands, that he took that means of informing him, that he ſhould immediately proclaim him to the world, to be as baſe a coward as he was an abandoned villain; I ſpeak from the beſt of my recollection, by referrence to the letter itſelf, which I can identify, and from which I ſpeak, this will more fully and accurately appear.

It being near three o'clock, the Court adjourned till to morrow morning the 22d of January, at ten o'Clock.

SECOND DAY.

At a General Court Martial held at Fort William, the 22d of January 1791, according to adjournment.

Preſent as yeſterday;—Captain Limond continuing indiſpoſed.

The Priſoner was brought into Court, and the Sheriff's order to the keeper of the jail of Calcutta, produced as yeſterday by Captain Fawcett.

The Acting Judge Advocate General then informed the Court, that having obtained ſince yeſterday, the original letter addreſſed by Lieutenant O'Halloran, to the Priſoner, and upon which the charge againſt the Priſoner was founded, he propoſed proceeding and verifying the ſame.

Mr. Strettle was again called into Court and examined.

Queſtions by the Judge Advocate.

Q. Look at and read this letter, (delivering a paper into the Witneſs's hand) are you certain this is the letter, the contents of which were read to the Priſoner by Enſign Anbury, on the 6th of January laſt, in your preſence?

A. I am poſitive it is the ſame.

The letter was then read and ordered to be inſerted in this place.

Lieutenant Colonel Samuel Howe Showers.

SIR,

" The deliberate infamy of your conduct towards me, demands the ſevereſt and moſt ample vengeance. You debauched the daughter of your moſt intimate friend when entruſted to your charge, and afterwards married her to a man for whom you profeſſed the higheſt eſteem and regard.

" Not

" Not content with theſe injuries, you continued a private correſpondence with my wife, and to my repeated demands of ſatisfaction, you were as deaf as you are to the calls of honour and juſtice.

" In conſequence of this your conduct, I intend immediately after this notice, to proclaim to the world,' that you are as baſe a coward as you are an abandoned villain."

Signed Joſeph O'Halloran."

Thurſday morning,
10 *o'Clock, 6th of Jan.* 1791.

Q. Did the Priſoner ſubmit tamely to the communication of that part of the letter wherein he was charged with deliberate infamy of conduct, and with having debauched the daughter of his moſt intimate friend when entruſted to his charge, and afterwards marrying her to a man for whom he profeſſed the higheſt eſteem and regard, and with continuing a private correſpondence with her?

A. He did it with the utmoſt paſſiveneſs and apathy, though as I ſaid before, I thought there appeared on the occaſion a little confuſion in his countenance.

Q. Did the Priſoner ſuffer patiently the communication of that part of the letter, wherein he was told that he was deaf to the calls of honor and juſtice, and that it was the intention of Lieutenant O'Halloran, to proclaim him to the world as baſe a coward as an abandoned villain?

A. Moſt patiently.

The Priſoner being aſked whether he had any queſtion to put to the witneſs, replied as yeſterday, that he would defer interrogating him till he came upon his defence, upon which the witneſs was deſired to withdraw:

Enſign Anbury was again called into Court and examined.

Q. Look at and peruſe this letter, *(putting the letter before verified by Mr. Strettle, into the Witneſs's hand,)* and inform the Court if you are certain that this is the paper, the contents of which, you read to the Priſoner on the 6th of January laſt, in the preſence of Mr. Strettle?

A. I am certain it is the ſame.

The Witneſs was then ordered to withdraw.

Lieutenant O'Halloran, was again called into Court, and examined.

Q. Do you acknowledge to have written this letter, *(putting the letter into the Witneſs's hand,)* and to have delivered it to Mr. Anbury on the 6th of January laſt, for the purpoſe of his reading the contents of it to the Priſoner?

A. I do.

Lieutenant Colonel Peter Murray, Adjutant General, being duly ſworn, was examined.

Q. Were you the Officer who put the Priſoner, Lieutenant Colonel Showers, under an arreſt by order of the Commanding Officer of the troops?

A. I was.

Q. Be pleaſed to inform the Court at what time you put the Priſoner under an Arreſt?

A. About

A. About Eight o'Clock in the morning of the 7th of January laſt.

The Priſoner being aſked whether he had any queſtions to put to the witneſs, and replying in the negative, the witneſs was deſired to withdraw.

The Judge Advocate reſting the evidence on the part of the proſecution *here*, the Priſoner was called on for his defence, when he requeſted to be indulged with a fortnight's time for preparing the ſame.

The Court being cleared, and taking the previous requeſt into conſideration, were of opinion that they could not, agreeable to uſage, or under the circumſtances of the caſe, allow the Priſoner ſo long a time for his defence as he required. A week appearing to them to be quite ſufficient for the purpoſe, but as the 30th of January would fall on a ſabbath day, and the 31ſt on a Monday, when the attendance of ſome of the Members of the Court would be required at the military board; and the 1ſt of February, on a muſter day, it was agreed that the Priſoner ſhould be granted till Wedneſday the 2d of February next, for the preparing of his defence.

The Court being opened the Priſoner was informed, that the Court could not comply with his requeſt, but that they had agreed to allow him until Wedneſday the 22d of February next, for preparing his defence.

The Court then adjourned to ten o'Clock on Wedneſday morning, the 2d of February next.

At an European General Court Martial, held at Fort

Fort William, purſant to adjournment, on Wedneſday the 2d of February, 1791. Preſident as before.

The Priſoner being brought into Court, and the Sheriff's order produced as before, Lieut. Colonel Showers was called on for his defence, when he delivered in the following addreſs:—

Mr. Preſident and Gentlemen,

" I have to requeſt that this Court will permit my counſel to ſtate my defence, and that they will further permit him to put ſuch queſtions as he ſhall ſuggeſt to the witneſſes, as are pertinent to my defence, ſo that all the facts in ſupport of my caſe, may fully appear, to acquit me from the unnatural charge brought againſt me."

The Court being cleared to take the ſame into conſideration, it was reſolved, that the Priſoner's council ſhould be at liberty to ſuggeſt to his client, ſuch queſtions, or matters as might appear neceſſary or pertinent to his defence, but that the Priſoner himſelf, muſt be the immediate channel of all ſuch queſtions or ſtatements.

The Court being opened, and the Priſoner informed accordingly.

He delivered in the following addreſs and narrative, which were read by the Acting Judge Advocate General, and ordered to be inſerted in this place.

The

THE PRISONER'S DEFENCE.

I underſtand the charge which I am now called upon to defend myſelf againſt, is confined to my ſubmitting patiently to be told what is contained in the letter, exhibited in behalf of the proſecution, added to one material fact, viz. that I was as deaf to Mr. O'Halloran's repeated demands of ſatisfaction, as I am to the calls of honor or juſtice; the facts and conduct which conſtitute the deliberate infamy wherewith I am charged in that letter, I underſtand from no part of the crime which now brings me before your tribunal.—Happy ſhould I be, if in this defence before you, I had to combat as well the facts themſelves, as to defend myſelf from the crime of having tamely ſubmitted to be told, I had been guilty of ſo much infamy as is there detailed. But the proſecutor has placed me in a ſituation more ſevere and diſtreſſing than I would have believed to be in the power of the moſt malicious and revengeful diſpoſition: I ſtand before you to defend myſelf, for tamely ſubmitting to be told of a crime which alone muſt, if true, in your eyes, ſubject me to the loſs of that honor and reputation, ſo juſtly eſteemed as the characteriſtic of a ſoldier and a gentleman; at a time too that I ſtand impeached in another court by the ſame proſecutor, for being guilty of thoſe facts, which the bare mention of in the manner ſtated in the charge, threatens ſuch

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ruin on my head. It is not unknown to you, Gentlemen, that I am brought hither from the jail of Calcutta, under the cuſtody of the Sheriff, by virtue of a writ iſſued againſt me on an action, wherein the preſent proſecutor is plaintiff, requiring bail in the ſum of one hundred thouſand ſicca rupees, and am returned to the ſame jail on my departure from hence, becauuſe I have it not in my power to obtain bail in the ſum required. I ſpeak not this to your paſſions, but as an excuſe for the requeſt I ſubmitted to this Court, to be indulged with time, until the deciſion of that action, when I truſt I ſhould have appeared before the Court to meet this trial with a better claim to your conſideration and juſtice, then I could hope, while the facts themſelves remain pending and undecided againſt me. I do not mean by this, to ſhew the leaſt ſhadow of reflection on your honor and integrity, or entertain the moſt diſtant apprehenſion that I ſhall not at your hands receive compleat and impartial juſtice; but I have preſumed to ſpeak to you as men, to ſtate ſuch circumſtances as peculiarly mark my caſe, ſo as you may diveſt yourſelves of all prejudice, but ſuch as ariſes from the charge before you, and the evidence adduced in ſupport of it. That I may be conſidered previous to, and during my juſtification, as ſtanding before you innocent of every other charge, but that which is to call for your judgment, and with it, I truſt, my honourable acquital. If any

one

one of you my Judges, ſhould at this moment think I do not come before the Court fairly to meet this charge, while the facts remain undetermined, ſuch is my truſt and confidence on your honor as gentlemen and ſoldiers, that I have the fulleſt aſſurance in my own breaſt, that you will even now grant that yourſelves, which you did not think I had a reaſonable right to aſk. The cauſe in the Civil Court, is I underſtand, now on the paper for trial, and might have been a week ago; but why it was *not* brought on, I leave to the feelings of the proſecutor, who has adopted this mode to wreak his ſevere and ample vengeance on me, not ſuſpecting that ſuch ſeverity muſt blunt the arrows of malice; in proportion as every Engliſhman leans to the ſide of the oppreſſed. But to take up no more of the time of the Court, on which I would not ſo long have treſpaſſed, but from the peculiarity of my ſituation, I will now proceed to direct my attention to the charge now before you, and in conformity to the directions of the Judge Advocate, I ſhall confine my principal remarks, and the ſtreſs of the evidence, to the limited time from Mr. Anbury being ſent to read me the letter on the morning of the 6th of January, until the morning of the 7th, when I was put under an arreſt; but as Mr. Anbury and Mr. O'Halloran, have depoſed, that I had previouſly been deaf to repeated *calls of honour and for ſatisfaction*, I am legally entitled to introduce, even if not to meet the charge, at leaſt to explain and ſubſtantiate what paſſed

upon this ſubject before the 6th of January, and in which facts are to be found, the only means whereby the caſe can be underſtood fairly; I ſhall therefore, by leave, to recur to the commencement of this buſineſs on the 3d of January, that I may be enabled to throw light upon the preſent charge, and place my conduct in a proper view to this Court; and that I may not interrupt my narrative, I ſhall with the leave of Court, firſt obſerve, upon the evidence adduced in ſupport of the charge, at the ſame time reſerving to myſelf the right to apply ſuch obſervations to the facts which I ſhall detail in the courſe of my narrative as may occur and be applicable.

The proſecutor on being required to explain what he meant by my playing with him, and adding inſult to injury, depoſes by my repeatedly refuſing him the reparation which his wrongs demanded; and by refuſing to do my endeavours to procure a warrant to be withdrawn that had been taken out to arreſt him on the preceeding Tueſday the 4th of January; by which he was compelled to wander about Calcutta in diſguiſe, to avoid the purſuit of the Sheriff's officers, and which warrant continued in force till Saturday the 8th of January.

The proſecutor, however, has not ventured to ſay how the warrant was procured.

[*The warrant was here read.*]

The information and depoſition of Melina Showers, wife of Samuel Howe Shower's, Lieutenant Colonel in the military ſervice of the United

Company

Company of Merchants of England trading to the Eaſt Indies, taken upon oath before me Sir Robert Chambers, Knight, one of the Juſtices of the Supreme Court of Judicature, at Fort William in Bengal, this fourth day of January, in the year of our Lord one thouſand ſeven hundred and ninety one.

Who on her oath ſaith, that in conſequence of ſome diſputes between the deponent, and Frances O'Halloran, wife of Joſeph O'Halloran, Lieutenant and Adjutant of the Fourth European Battalion, now doing duty in the garriſon of Fort William, and Samuel Howe Showers, huſband of this deponent; the ſaid Joſeph O'Halloran, came to this deponent's houſe and enquired for this deponent, that he was immediately admitted to this deponent, and he then informed this deponent of the intention of his viſit, which was to aſſiſt her, this deponent, in endeavouring to obtain a ſeparate maintenance from her huſband, the ſaid Samuel Howe Showers: that upon ſuch offer of the ſaid Joſeph O'Halloran, this deponent replied that ſhe was perfectly reconciled to the ſaid Samuel Howe Showers, and no longer doubted his innocence; and that, ſhe this deponent, could eaſily convince the ſaid Joſeph O'Halloran thereof: that the ſaid Joſeph O'Halloran, then required this deponent to give him a writing under her hand, to aſſure him that ſhe was ſatisfied of the innocence of her ſaid huſband, the ſaid Samuel Howe Showers; and thereupon, this deponent deſired leave to conſult her ſaid huſband, Samuel Howe Showers, what ſhe ought to write on

the occaſion, as his reputation was concerned; to which the ſaid Joſeph O'Halloran, replied, that he was come with a full determination to challenge the ſaid Samuel Howe Showers; thereby meaning as this deponent underſtood and believes, to challenge to fight a duel, and that he would *call him out* immediately for that purpoſe, unleſs that ſhe would pledge herſelf to him, the ſaid Joſeph O'Halloran, not to mention what was then paſſing between them in converſation, to the ſaid Samuel Howe Showers: that this deponent thereupon required an aſſurance from the ſaid Joſeph O'Halloran, that he would not for the ſpace of two or three days challenge or provoke the ſaid Samuel Howe Showers, to go out to fight with him, the ſaid Joſeph O'Halloran; and the ſaid Joſeph O'Halloran, then and there pledged his honour to this deponent that he would not; upon which this deponent wrote and ſigned a paper writing, in the preſence of the ſaid Joſeph O'Halloran, and delivered the ſame to him, to the effect he required, and the ſaid Joſeph O'Halloran, on receiving the ſame, promiſed this deponent he would make no further uſe of it than to clear his wife, the ſaid Frances O'Halloran, to his friends; and ſoon after he left this deponent.

That this morning a gentleman, an officer in the Fort, came to this deponent's houſe before ſhe was up, and having waited there ſome time, this deponent firſt came out to him, and deſired, if he had any meſſage, to acquaint her with it, as the Colonel, her huſband, was not up. That the

gentleman

gentleman informed this deponent, that he came with a private meſſage for the ſaid Samuel Howe Showers, which he muſt deliver to him; that this deponent had previouſly been informed by her ſervants, that the gentleman came from Mr. O'Halloran's, and ſhe ſuſpecting the buſineſs of his viſit, and thoſe ſuſpicions being confirmed by his refuſing to deliver the meſſage to this deponent: that this deponent went to acquaint her huſband, the ſaid Samuel Howe Showers, that a gentleman was waiting to ſpeak to him; that the ſaid Samuel Howe Showers was then dreſſing, and deſired the gentleman might come to his room: that this deponent was anxious to know what was the meſſage, on account of her ſuſpicions, and ſhe placed herſelf ſo near as that ſhe could overhear; that ſhe did overhear, in reply, her huſband ſay, that he would ſend him an anſwer by Captain Gaſcoigne: that this deponent afterwards applied to, and intreated of her ſaid huſband, the ſaid Samuel Howe Showers, to inform this deponent of the occaſion of that gentleman's viſit, but he refuſed to comply with this deponent's requeſt; for which reaſon this deponent verily believes, that the ſaid Joſeph O'Halloran, on the occaſion aforeſaid, hath ſent a challenge, or meſſage, to the ſaid Samuel Howe Showers, to provoke him to fight with ſome mortal weapon or weapons; and this deponent verily believes, that the ſaid Joſeph O'Halloran will fight with this deponent's huſband, the ſaid

Samuel

Samuel Howe Showers, unleſs prevented; and this deponent further ſaith, ſhe apprehends ſome bodily injury to the ſaid Samuel Howe Showers from the ſaid Joſeph' O'Halloran, and therefore ſhe is deſirous that the ſaid Joſeph O'Halloran may give ſecurities to keep the peace.

(Signed) MELIAN SHOWERS.

Sworn before me
the aforeſaid day of Jan. 1791.

(Signed) ROBERT CHAMBERS.

The above was delivered to me, by Mr. Johnſon, Attorney at Law in Calcutta, as a true copy of the original.

Calcutta (Signed) MELIAN SHOWERS.
Jan. 5, 1794.

A true copy of the above-mentioned copy.

Calcutta,
Feb. 11, 1794.

(Signed) MELIAN SHOWERS.

I will aſk any gentleman, what he would expect muſt be the conſequence, where one gentleman requiring ſatisfaction of another, goes to the wife of the latter, and informs her of his intention to call the huſband out?—Yet this was done by the proſecutor, and the conſequence was, that my wife, (notwithſtanding ſhe prevailed on this high-ſpirited gentleman to forego an intention, I ſuſpect he never had, of fighting me before he left the houſe) was full of apprehenſions for my ſafety, and on ſeeing Mr. Anbury the next morning, whom ſhe had never ſeen in the houſe before

before, and who informed my wife, that he came on private buſineſs to me, and either had himſelf told the ſervants, or his ſervants had communicated to them, that he came from Mr. O'Halloran, immediately ſuſpected the occaſion of his viſit, and ſo concealed herſelf within hearing of the meſſenger, ſo as to be aſſured of the truth of her ſuſpicions, and therefore had recourſe to the Civil Power to prevent a meeting ſhe had ſo much dreaded.

It is neceſſary for me to call your attention, Gentlemen, to theſe circumſtances, as well to wipe away every ſuſpicion that ſhe was inſtigated to this by me, as to be one reaſon, among many others, to account to you for *my behaviour* and conduct on the *meſſage being read* to me, which is the foundation of the preſent charge. It is neceſſary for this purpoſe to remark to you, that this bold man, on his viſit to my wife, had forgotten all his own injuries, in his anxiety and inclination to aſſiſt my wife in obtaining redreſs for an imaginary injury by an application to the Eccleſiaſtical Court for a ſeparation, to accompliſh his wiſh.—This was the vengeance he was to take on me;—this was to be his *lex talionis!* that ſuſpecting I had deſtroyed his connubial comforts, he ought to endeavour to deprive me of my mine, by inſtigating my wife to take ſuch a ſtep;—but not finding my wife diſpoſed to take ſuch a meaſure; on the contrary, that ſhe was convinced of my innocence of the charge; he then threatened to call me out immediately

mediately; but was at laſt prevailed upon, and, I dare ſay, with much entreaty and many powerful arguments, *to pledge his honour* to my wife, to wait a few days.

He returns to his friends; is either laughed at for his folly, or confiding in his own penetration and addreſs, that this preliminary ſtep would effectually ſecure his life, as well as his honour and reputation, he follows up his plan, and ſends a challenge to me, with no more apparent reaſon for it the next day, than he had on the day of his viſit to my wife. I ſhall, Gentlemen, no otherwiſe recriminate on the proſecutor, than is neceſſary to my own juſtification. Had a meeting been the object of the Gentleman, or had he not in view ſome other plan for wreaking his vengeance for ſuppoſed injuries, would my letter, which will be given in evidence to you, have been returned to me, as coming too late in the afternoon of the 6th of January? or would not a man of common ſpirit have then gone out with me, notwithſtanding he might have preferred the charge to the Commander in Chief for a Court Martial; which I dare ſay, had been done,—for in matters of this kind he was alert enough; but this gentleman choſe to ſhelter himſelf under ſuch a frivolous maſk of courage, that having once prepared his charge, though not too late to ſtop it, he would not then accept of what he would have you to believe he was ſo anxious about but a few hours before, as the only reparation for his injured honour! The

circumſtance

circumſtance of the warrant too I muſt enlarge upon a little more. I did diſavow all knowledge of its being about to be applied for; and when it was ſtated to me by Mr. Anbury, I laughed at it, and ſpoke of it as a matter of moon-ſhine, not in the leaſt to be regretted as an obſtacle to our meeting. Had I been a coward, and privy to my wife's plan, I aſſuredly had a fair opportunity, by availing myſelf of the proſecutor's communication; which perhaps he hoped I would embrace, apparently to ſave my honour and reputation as a ſoldier, and that getting a warrant againſt myſelf as well as Mr. O'Halloran, was known to me; but had my object been to avoid fighting, or meeting the challenge of any man, how eaſy would it have been for me, after the warrant was iſſued, to have got it executed, even in the field, if I had been ſo diſpoſed?

I have done with the Proſecutor's evidence, except what he depoſes in common with the other witneſſes.

The variance in the evidence of the two next witneſſes, *(or ſuppreſſies veri)* or want of recollection in one, if the other is credited, calls next for my remarks. Mr. Anbury, who is called to ſtate to you what paſſed at the reading of the letter, on the 6th of January, makes no mention of what is related by Mr. Strettle, as to a letter I ſent the former that morning, though made a ſubject of converſation between me and Mr. Anbury. Lucky it is for me, as it will appear, Gentlemen, when I come to read my narrative,

that Mr. Strettle's recollection was not ſo bad. It appears by this laſt gentleman's evidence, that beſides making uſe of the words, "It is extraordinary, very ſtrange," that I called out (aloud and with ſome agitation) to know who carried my letter to Mr. Anbury that morning. Mr. Anbury then condeſcends, on a ſuppoſition made for him by Mr. Strettle, and in which that gentleman is very right, that the letter referred to by me, contained the anſwer he wiſhed to obtain, aſked me the purport of that letter; my anſwer was, that I had ſent a letter to Mr. Greene, and which produced an interruption from Mr. Anbury, of "Poh! Sir, what has this to do with the object in hand." Could Mr. Anbury, or the other gentleman learned in the law, ſuppoſe that I aſked Mr. Anbury if he had received a letter which I had ſent to Mr. Greene; yet this is the *Iriſh* conſtruction that muſt be put upon the evidence as it now ſtated. The fact was, that the letter I alluded to, was a letter to Mr. Anbury, telling him, I would meet the Proſecutor; and that I had ſent for Captain Greene, and had laid horſes for him, that there might be no delay. This letter was delivered to Captain Gaſcoigne in the morning, to convey to Mr. Anbury—but it ſeems he was every where but at home—and unfortunately it was returned to me by that gentleman at four o'clock the ſame day; when I inſtantly diſpatched another letter to Mr. Anbury, that he was pleaſed to read and return without an anſwer,

as

as being too late, the Profecutor having preferred the charge, to ſave his credit without riſking his life. But I was ungraciouſly interrupted by Mr. Anbury, when I was proceeding to ſtate to him the contents of my letter, which, according to Mr. Strettle's ſuppoſition, was really an anſwer ſuch as he wanted.

It is lucky, Gentlemen, I muſt again repeat, that Mr. Strettle's recollection comes in here to my aid, for on receiving back the letter in queſtion from Captain Gaſcoigne, I was unfortunately in ſuch a paſſion, as immediately to deſtroy it, but inſtantly wrote another letter.

Mr. Anbury ſpeaks of my tamely ſubmitting and patiently bearing the communication of the letter read to me, by him, on the 6th. Mr. Strettle, at one inſtant, diſcovers ſome confuſion which at the next is obſerved in the moſt perfect apathy and indifference—however it is not in my intention to remark on ſuch trivial incidents;—I now come to the grand point of the caſe as ſtanding in evidence againſt me, viz. the interview with theſe gentlemen on the 6th, and my conduct on the letter being read; grant me, gentlemen, but the ſame right for ſuppoſition as has been aſſumed by Mr. Strettle in regard to my letter and my defence will be very ſhort; I appeal to the feeling of every honourable gentleman here, and deſire each to aſk himſelf, how he would act in ſuch a ſituation? Let me aſk, which was the moſt brave, the moſt honourable, the

moſt collected, and the moſt gentleman-like conduct---to attempt to knock the gentleman down, for daring to read ſuch an infamous libel, to kick them down ſtairs, or to attend to the duties of my ſituation, and behave with coolneſs and politeneſs in my own houſe. But, Gentlemen, my temper is rather warm, and had I not been awed by the preſence of a lawyer, I queſtion if I ſhould have preſerved all that moderation, the characteriſtic of true courage:--I knew at that time of the Proſecutor's attempt to inſtigate my own wife to commence a proſecution againſt me; I was conſcious too of the letter I had written to Mr. Anbury that morning, and which I had no ſuſpicion he had not received; nor when he interrupted me, did I ſuſpect he had not received it; on the contrary, I believed he knew the contents by ſuch interruption, and that my propoſing to go out was not the anſwer required. This, Gentleman, Mr. Strettle, is a lawyer, now in practice, and, as I believe, now retained againſt me in the civil action. It may be objected to me, that I might have collected from the reading of the letter, what was required of me; but I beg of you, Gentlemen, as deciding upon my honour and reputation, you will at the ſame time take into conſideration my firm belief, that my letter had been received by Mr. Anbury. I confeſs I was overawed by the preſence of a lawyer, and rather believed they wanted to draw ſome declaration from me that would lay a ground for a

proſecution;

proſecution; I never once ſuſpected that cowardice could be imputed to me. It came forcibly upon my recollection, the attempt made by Mr. O'Halloran, to perſuade my wife to enter a proſecution againſt me, and for the time made me forget the confidence I ought to have had in Mr. Anbury, as a gentleman and a ſoldier; added to all this, Gentlemen, I was within the hearing of all my family, who were alive to every alarm for my ſafety, ſince the communication of the proſecutor, and the conſequent diſcovery of my wife, who would not have failed on any declaration from me, to have uſed every poſſible means to prevent a meeting, which ſhe as a woman, ſo much dreaded, without any the ſmalleſt conſideration, how it might effect my reputation.

It is in evidence before you, that after the reading of the letter, I was told it would be followed up by a Court Martial. Will any Gentleman ſuppoſe, that under ſuch a circumſtance, I ſhould be mad enough, and ſo abſurd as patiently to purſue ſuch conduct as would inevitably deprive me of my honour and reputation, and would draw upon me the contempt of my brother officers, no wiſe conſcious of a particle of cowardice, I did not ſuſpect that any would be imputed to me. I had nothing to ſay more in anſwer to that infamous libel, than I had written in the morning, my object was action and not words; I could not exculpate myſelf from the epithet of a coward, at a time I knew I had written that I would

would meet the profecutor. If I have erred in my conduct at this interview, it is an error of judgment as far as my preſence of mind can allow me to judge of the drift of the meſſage delivered to me, as now appears, for not going out when I had written that I would, in the preſence of a lawyer, who I could not ſuſpect was employed but in the line of his profeſſion, with the full reſolution of the profecutors attempting to ſpur up my wife to a profecution; my letter in the evening, as ſoon as I knew of the miſcarriage of my letter by Captain Gaſcoigne, ought not to have been returned; my writing it evinces the ſame ſpirit which had actuated me throughout, and it is a pitiful advantage to ſay, I was then too late; why? becauſe the charge was preferred with a liberal mind! even if I had not ſuch an excuſe for my conduct at the interview, as is here related, it would have carried with it its own apology, but the object has been to hurl down vengeance on my head, and conſiſtent with that object, my inclination to go out could not be received.

(Signed) S. H. Showers.

The Priſoner further delivering into Court the following Narrative, it was read by the Judge Advocate.

NARRATIVE.

On the 3d of January at noon, Mr. O'Halloran came to my houſe, I met him in the hall, he

he ſhook hands with me, ſaying, " How do you do Colonel? I want to have a little goſſip with Mrs. Showers," calling out, " Mrs. Showers, can I ſpeak to you." She then came out of her room, Mr. O'Halloran, turned round to me and ſaid, " I have truſted my wife with you, will you do the ſame." Mrs. Showers, replied rather angrily, " Sir, there can be no doubt of that, pray walk into the Colonel's room." On which the door was ſhut, and Mrs. Showers informs me, they ſeated themſelves at my writing table, on which Mr. O'Halloran ſaid, " Mrs. Showers, madam, I am come to coincide with you in obtaining a ſeperate maintenance from your huſband, and you may rely now and hereafter, for every ſervice in my power," on which Mrs. Showers replied, " Sir, you much ſurpriſe me, I was never on better terms with my huſband than at this moment." Mr. O'Halloran then aſked, " How long can this have been?" on which Mrs. Showers made anſwer, " within theſe two days," Mr. O'Halloran, then replied, " I am well acquainted with the conduct of Mrs. O'Halloran, and I have read the copy of a letter which has deſtroyed my peace for ever," that he never meant to live with Mrs. O'Halloran, and had quitted his quarters, to which he never meant to return, that unleſs Mrs. Showers would give him ſome ſatisfactory anſwer, and the original letter, he was come with the full determination to call Colonel Showers to an immediate account, for he could

not

not afford going to law;" Mrs. Showers, told him, "She would not part with the original letter, he then aſked, "to ſee it only," on which, "She told him it was not in her power, as ſhe had ſent all her papers ſome diſtance from thence, and it would take two days to get them, that ſhe had not the ſmalleſt doubt of her huſband's innocence, which ſhe would convince him, to the full ſatisfaction of all parties, if he would only wait two or three days, and adviſed his return during that time, to Mrs. O'Halloran, and laying aſide all thoughts of violent methods for that ſpace, as ſhe was ſure every thing would be then ſettled to his wiſhes." Mr. O'Halloran, then ſaid, "Will you give me in writing ſuch a paper as I can ſhew to my friends, how far you judge your huſband innocent, if you will do this, I will go home for the time you mention, with Mrs. O'Halloran, and alſo, will lay aſide all thoughts of violent ſteps for two days." Mrs. Showers ſaid, "will you pledge your honour in a moſt ſacred manner, to keep this promiſe," upon which he ſaid, "Give me the writing, and I will moſt ſacredly pledge you my honor, that I will comply with your requeſt, and further, that I will on no account whatever, make any further uſe of the writing you ſhall give me, than to ſhew it to my friends, and I will either bring it this evening, or ſend it to-morrow morning." Mrs. Showers, then ſaid, "She would with pleaſure give the writing, but thought it proper firſt to

conſult

to conſult with Colonel Showers, and beg his permiſſion ſo to do;" Mr. O'Halloran, made anſwer, "That he could not conſent to it, and her doing it without, might be the means of ſaving one or both their lives, as he was reſolved to have immediate ſatisfaction." On which Mrs. Showers ſaid, "If that was the caſe, ſhe would venture to give what he required," and wrote the following note.

"DEAR SIR,

"I have not the ſmalleſt reaſon to think Mrs. O'Halloran's letter meant any thing but anger to myſelf, and this from a diſpute that happened at a dance at my houſe, at which ſhe took the head of my table; this cauſed ſome words, to revenge which, I believe the letter was a contrivance to make me uneaſy, well knowing my affection for my huſband; this has been proved to me within theſe two days, this I will endeavour to convince you of in three days, and am concerned you ſhould take our diſputes ſo ſeriouſly.

I am,

DEAR SIR,

Your Humble Servant,

(Signed) MELIAN SHOWERS."

Dated Jan. 8, 1791.

Mrs. Showers ſaid, before delivering this letter, "I beg to take a copy for the ſatisfaction of Colonel Showers." On which Mr. O'Halloran, re-

 plied,

plied, " It was needleſs to take that trouble, as ſhe might rely on having the note returned that evening or next morning, and again pledged his honor that he would return the note that night, or next day." But Mrs. Showers, ſaid notwithſtanding, that " She muſt keep a copy, as it was a paper of too much conſequence to give without, and accordingly took a copy, and then delivered the note to him, ſaying, " Mr. O'Halloran, remember you have pledged your honor in a moſt ſacred manner to me, I expect you will keep it." On which Mr. O'Halloran, ſaid, " Moſt aſſuredly I will;" but ſaid he required on his part, that for the two days ſhe would not acquaint Colonel Showers, of the reſult of this converſation," and ſhe gave her word and honor to him ſhe would not, unleſs he broke his, upon which he took his leave of Mrs. Showers. I met him in the hall, aſked him to ſtay dinner, which he declined, and parted ſeemingly good friends; I turned round to Mrs. Showers, and ſaid, you ſee your ſuſpicions are groundleſs, we are as good friends as ever, upon which ſhe ſhook her head, and replied, in two or three days I will convince you of the contrary, for he is at this moment acting a treacherous vile part. I demanded to know what ſhe meant, but ſhe earneſtly entreated, I would for a little time allow of her ſilence, on that ſubject, and therefore I enquired no more about it.

Early the next morning, on the 4th of January, Mr. Anbury came to my houſe before I was up, the maid ſervant acquainted Mrs. Showers that a Gentleman

tleman was waiting in the garden, upon which Mrs. Showers, awoke me, and ſaid, " We had better get up, there is a perſon wants to ſee you, and has been waiting above an hour." I immediately got up and and went into my dreſſing room, Mrs. Showers immediately ſent her *(native)* woman to enquire who the ſtranger was, from where, and on what buſineſs he came, who brought for an anſwer, " *he was a Mr. Emily, from Mr. O'Halloran, in the Fort.*" Mrs. Showers then ordered, the coach directly, ſuſpecting, that from the conduct of Mr. O'Halloran, the day before, it certainly was a challenge; ſhe therefore dreſſed herſelf in great haſte, went into the hall where Mr. Gaſcoigne and Mr. Anbury were, paid the uſual compliments of the morning, but turned to Mr. Anbury, and ſaid, " Sir, any particular buſineſs with Colonel Showers, if you have, I will acquaint him?" on which Mr. Anbury, replied, " I wiſh to ſee Colonel Showers, as my buſineſs is of a ſecret nature;" on which Mrs. Showers ſaid, " I will go and acquaint him," which ſhe did, and came to me; I haſtened out as ſoon as poſſible, and aſked Mr. Anbury into my room. Mrs. Showers, ſuſpecting his buſineſs, placed herſelf ſo as to overhear me ſay I would ſend a meſſage by Mr. Gaſcoigne, which, and ſome other words, convinced her it muſt be a challenge, ſhe ſat down to the breakfaſt table, till Mr. Anbury and myſelf came out, I was ſurprized to ſee Mrs. Showers, with her cloak on, and aſked her where was ſhe going to, ſhe replied, " to Captain Thornhill's, have you any

commands?" on which ſhe went away, called on Captain Thornhill, requeſted the favour of his accompanying her to Mr. Johnſon's, where they went and obtained a warrant to arreſt Mr. O'Halloran, as the depoſition proves, as a copy of it is preſent. Now, though not quite in the order of time, I am to relate Mr. Anbury's meſſage; upon his coming into my room, he delivered himſelf as follows: "Sir, this is a very unpleaſant piece of buſineſs I have come upon, Mr. O'Halloran's peace of mind is quite deſtroyed, and as his ultimatum deſires you will mention time and place, and hoped it would be as ſoon as poſſible; however, I ſhould be accommodated with a few days." I anſwered, that "having a large family, I of courſe required time, but I will ſend Mr. Gaſcoigne, (whom I had from the moment I heardthe of buſineſs, fixed for my ſecond,) with my further anſwer, as he was then in my houſe." Mr. Anbury, then took his leave, I went out and breakfaſted immediately, after which I aſked Mr. Gaſcoigne, into my writing room, ſhut the door, then addreſſed him in the following words, "Gaſcoigne, I ſuppoſe you know the buſineſs Mr. Anbury, came upon," he anſwered, "yes," and after converſing a little on the ſubject, I told him I had promiſed to ſend an anſwer by him, and requeſted he would acquaint Mr. Anbury, I would certainly do all Mr. O'Halloran wiſhed, but that having a great deal to do, ſhould require a little time, that I could not then particularly fix, but would as ſoon as poſſible. Mr. Gaſcoigne, ſaid,

"Had

"Had not you better write this to Anbury." I replied, "I will requeſt you to take it, as none of my people know his quarters." I then wrote a note to the following purport, having kept a copy of it.

SIR,

I will certainly do every thing Mr. O'Halloran wiſhes; but having a great deal to do, of courſe require a little time.

I am,
SIR,
Yours, &c.
(Signed) S. H. SHOWERS.

Jan. 4, Morning.

After writing the above note, January 4, I accompanied Mr. Gaſcoigne to the door, and offered him the note to carry; he anſwered, you had better ſend one of your people to my quarters with it; which I did, and Mr. Anbury, I believe, received it, however he can tell; I have the ſervant to prove it was carried. I thought that note fully ſatisfactory for that day, intending the next to fix time and place; but I own I was angry at being troubled at a viſit that evening, and ſo ſoon after giving a reply, which I judged quite proper and ſufficient. Mr. Anbury came the next morning, very early, before I was up; I was again a good deal vexed at being diſturbed at ſuch improper hours, and therefore determined not to give him, at that moment, a ſatisfactory anſwer;

anſwer; but upon his leaving me, I told him not to underſtand me as refuſing to meet Mr. O'Halloran, and leſt any thing might be miſconſtrued, I immediately before breakfaſt, wrote him a note to that effect; after which, ſettling ſome very particular buſineſs, and exactly at half paſt eleven A. M. I wrote the following note.

SIR,

Having nearly ſettled the buſineſs which occaſioned the delay, I am ready to meet Mr. O'Halloran when and where he pleaſes.

I am, &c.

Jan. 5, 1791. (Signed) S. H. SHOWERS.
Half paſt 11, A. M.

The above was incloſed in the following to Mr. Gaſcoigne:—

MY DR. GASCOIGNE,

Incloſed is a letter to Mr. Anbury, which I ſend for your peruſal, after which ſeal it and deliver it with your own hands; and I have to beg the favour of your being my ſecond on the occaſion.

I am, &c.

(Signed) S. H. SHOWERS.

About ſix o'clock the ſame evening, I received the following anſwer from Mr. Goſcoigne:—

DEAR SHOWERS,

You muſt excuſe my complying with your requeſt,

requeſt, it being an affair in which I wiſh to have no concern whatever.

Yours truly,

Jan. 5, 1791. (Signed) T. GASCOIGNE.

Wedneſday at noon.

About ten minutes after the receipt of this note, Mr. Anbury came to my houſe; I met him in the hall, and we retired into my writing-room. He ſaid, he was glad to find all things ſettled to my mind, and after conſulting a little upon the ſubject, deſired my friend might wait on him next morning; I ſaid, certainly; but told him, it was a moſt unlucky circumſtance, that I had but a few minutes before only received a letter from Mr. Gaſcoigne, declining the requeſt I made him, but I would fix on a proper perſon to act on the occaſion, and acquaint him early the next day. Mr. Anbury aſked me, if he ſhould carry a note to any perſon, who I could wiſh to attend me; to which I replied, that having been diſappointed in the perſon, who I thought would not refuſe, it really required a degree of thought, who to fix on, as it was a thing of ſo delicate a nature, that none but the moſt intimate friend or relation would engage in it: however, I repeated, I would write and acquaint him the next morning. Mr. Anbury then ſaid, Mr. O'Halloran was under a diſagreeable predicament from the Civil Court; I then aſked, how it could be taken off? Mr. Anbury replied,

only

only by the good lady who had put it on; I then made anſwer, that the forms of law, in a buſineſs of this nature, was mere matter of moon-ſhine, and did not ſignify to us. He aſked, if he ſhould wait on me next day; I thanked him, but ſaid, I would not give him that trouble, meaning as at firſt propoſed, my friend ſhould wait on him. Mr. Anbury then took his leave; I then went to Mrs. Showers's room, where ſhe had retired under great anxiety, on Mr. Anbury's coming to me. I ſpoke to her in the kindeſt manner, with a requeſt, that ſhe would go next morning, as early as poſſible, to Mr. Johnſon, and take off the arreſt from Mr. O'Halloran. She replied, cannot you do it; on which I anſwered, no, nobody but yourſelf. She then ſaid, I am heartily glad of it: as I will die firſt, while you are in danger. She then left me in the room, and ran into the *veranda** to the Miſs Youngs and her ſon Haſtings, and repeated the above with great joy. Thoſe three perſons will confirm this; but immediately after I requeſted Mrs. Showers to write to Mr. Robert Greene, at Dum-Dum† to come to town without delay, and ſent my phaeton half way to expedite his arrival. The reaſon I did not write myſelf, was in order to prevent his family, and indeed himſelf, from ſuſpecting any thing of the buſineſs, as I knew on her writing no queſtions would be aſked,; and I wrote a note early next morning to Mr. Anbury. SIR,

* *Veranda*—an open colonnade, or balcony,

† Dum-Dum—The place of the artillery encampment, about eight miles from Calcutta.

SIR,

I have wrote to Dum Dum for my friend, and expect him here ſoon, having laid a carriage on the road, to expedite his arrival, and will be glad to ſee you here in the evening to meet him.

I am, &c.

Signed, S. H. SHOWERS.

Jan. the 6th 1791,
early in the morning.

About four o'clock that evening, to my very great ſurprize, Lieutenant Gaſcoigne, came out to my houſe, and returning me the above note, ſaying, he had ſent about Calcutta that whole day, and could not find Mr. Anbury, any where; I was ſo vexed at the circumſtance, that I tore it in pieces, to think it had not been delivered: the miſcarriage of this note was an unfortunate thing, as it occaſioned a viſit from Mr. Anbury, who about noon that day came to my houſe; though this was a few hours ſooner than I expected, as my note requeſted his company in the evening, I met him in the hall, and went towards the door of my writing room, where I had twice before converſed with him on the ſubject I concluded he was then come about; but either himſelf, or Mr. Strettle, who accompanied him, (Mr. Anbury) ſaid there was no occaſion to retire, I really was at a loſs to imagine what Mr. Anbury's buſineſs could then be, more eſpecially, being attended with a counſellor at law, but one

of thoſe gentlemen, I do not recollect which, aſked me if they ſhould read a letter, to which I readily replied "yes," by all means, for conſciouſneſs of the rectitude of my actions, as well as politeneſs in my own houſe, demanded every attention to them; for what reaſon had I to imagine, it was a letter from Mr. O'Halloran, who had *never on this occaſion* wrote to me before? unleſs he might, from circumſtances, have been convinced of his error, and the injuſtice he had done me, which aroſe from malicious reports; but when I heard the horrid accuſations in the firſt part of the paper, I own, I was incapable of ſpeaking from aſtoniſhment, and as to the latter part, I did not think it worth reply, being in hourly expectation of my friend from Dum Dum, which would have ſettled that matter, and convinced him how wrong he had judged of that, as well as the other. Upon the Gentlemen leaving me, and aſking what anſwer I had to make to the letter, I remember well ſaying, I was ſo exceedingly aſtoniſhed, I knew not what to ſay, and being in the preſence of a third perſon in a buſineſs of that nature, and a counſellor at law, and apprehenſive alſo, that there might be ſome other meaning or intention, I could by no means then foreſee, I was, I own very much on my guard, but expreſſed my ſurpriſe to Mr. Anbury, at this extraordinary viſit, after I had wrote a note to him early that morning, to acquaint him I had ſent off the evening before, for Mr. Greene. Mr. Anbury aſked me the purport of the note, but when I began to relate it to him,

he

he declined hearing it, and ſaid it was of no conſequence; but I declare, I do not recollect his ſaying as in either his, or Mr. Strettles depoſition, that any ſteps I had to take muſt be done immediately, or the opportunity would be loſt; I remember well, his talking about a court martial, and not to wonder at any ſteps Mr. O'Halloran might take; and though for the reaſons I have before urged, not chuſing to ſpeak, yet in my own mind I really concurred with him after hearing the letter, there was not the colour of an excuſe for waiting; for if there were any delays, it was on the part of the other, and not mine, as I had by my note to Mr. Anbury, on the 5th at noon left it to themſelves reſpecting time and place, &c. moreover, after theſe gentlemen left me reflecting upon this extraornary viſit, it occurred to me, that the delays reſpecting my friends coming, might be imputed to improper motives, I was determined not to wait for Greene, or any body, and that afternoon wrote and ſent the following note to Mr. Anbury.

SIR,

To my very great ſurpriſe, Mr. Gaſcoigne has juſt now returned the note I ſent him this morning *for you, ſaying* he had ſent about all day and could not find you. My carriage is not returned from Dum Dum, therefore I expect Mr. Greene every minute; however, whether *he does or does not come*, I beg

the time and place may be fixed on, as I wiſh *no more* miſtakes, which I ſuppoſe occaſioned that improper letter to day, which will be an hereafter buſineſs.

I am,

SIR, &c. &c. &c.

Jan. 6th 1791: Signed. S. H. SHOWERS.

The above letter was returned *open* to me, encloſed in one from Lieutenant Anbury, ſaying he could not receive any more letters from me; this letter came after I was in bed, and I did not ſee it, till I got up next morning juſt before breakfaſt, Captain Thornhill was then with me, and I expreſſed to him my concern, at the miſcarriage of my note to Mr. Anbury the day before, which had occaſioned all the miſtakes, and probably improper things ſaid and done towards me; this was verified a few minutes afterwards, by the arrival of the the Adjutant General, who waited upon me with orders from the Commander in Chief to put me under an arreſt. At noon the ſame day, I was arreſted by two of the Sheriff's officers;—I now beg leave to add a few remarks:—

REMARKS.

After Mr. Anbury had been with me on the evening of the 5th, if I had not ſent for a gentleman, or had not wrote to Mr. Anbury agreeable to my promiſe, or I had altered or receded on any thing,

thing, then indeed I might have been juſtly blamed, and my intention of meeting Mr. O'Halloran doubted; as alſo if Mr. Anbury had on the morning of the 6th told me no more would be received; on the contrary by his own confeſſion, when he left me he expreſſed an expectation that I would ſend an anſwer afterwards, *which I did*, Mr. Strettle acknowledged on his evidence, that when I aſked Mr. Anbury whether he had received a note from me on the morning of the 6th, and being informed in reply from Mr. Anbury, that he had not, I called out in ſurpriſe to know who carried it; it occurred then immediately, that ſome miſtake muſt have occaſioned their imputing to me improper delays.

Strongly impreſſed with the higheſt ſenſe of your paſt indulgence, and the firmeſt reliance upon the deciſion of a Board of Officers, whom I doubt not will be found as conſpicuous for impartiality, as diſtinguiſhed for their honor. I am now Gentlemen, to take my leave of you to meet another trial, when the like conſcious innocence will ſecure to me that ſucceſs, I flatter myſelf, I ſhall meet from this Honorable Court.

I have the Honor to be,
With great Reſpect,
Your Moſt Obedient,
Humble Servant,

Signed. S. H. SHOWERS, Lieut. Col.

[It is proper to remark in this place, that the laſt paragraph of the preceding narrative, (or ſecond

part

part of the Priſoner's defence) was inſerted by the Priſoner ſubſequent to the delivery of the defence: but being read at the cloſe of the proceedings, was ordered to ſtand as annexed by the Priſoner to his original addreſs.]

The Court being cleared on motion, to conſider whether the whole of the preceding narrative delivered in by the Priſoner, and read by the Acting Judge Advocate General, was proper to be recorded, it was agreed in the affirmative.

Lieutenant O'Halloran, being called into Court by deſire of the Priſoner, was further examined as follows:—

Queſtion by the Priſoner.

Q. You ſay you had vainly ſought from my honor and juſtice, reparation for injuries received from me, inform the Court what you fully mean by theſe words, that is what injnries you mean?

A. I refer to the letter for the injuries I meant, which are therein ſet forth.

Q. Did you not give intimation to Mrs. Showers, at the time you had a converſation with her on the 3d of January at my houſe, that without a more ſatisfactory anſwer from her, as to a certain original letter, you were come with a full determination to call me to an immediate account?

A. No I did not tell her ſo.

Q. Did you ſay any thing to Mrs. Showers on that occaſion, that might lead her to ſuppoſe that it was your determination to call her huſband to an account, in caſe ſhe did not ſatisfy you in point of a letter.

A. I told

A. I told her, as I took up my hat to go away, that what the laws of honor dictated I ſhould follow.

Queſtion by the Court.

What were your inducements for communicating to Mrs. Showers, your determination of following the dictates of the laws of honor?

A. The inducements aroſe from the converſation I had with Mrs. Showers, when ſhe had endeavoured to palliate Mrs. O'Halloran's conduct.

Q. When you gave the letter to a friend, as you have ſaid, to read to me, in what manner did you expreſs yourſelf to that friend?

A. I told him it was a laſt effort, and that if the Priſoner ſubmitted tamely to it, after what had paſſed, nothing would rouſe him; and deſired him to inform the Priſoner what the immediate conſequence would be.

Q. Do you know of any letter ſent by me to Mr. Anbury, on the 5th of January laſt about noon?

A. I know of a letter which Mr. Anbury received about 5 o'clock in the afternoon of that day.

Q. What was the purport of that letter?

A. The purport of that letter was, that he, the Priſoner, had now ſettled his affairs, and that he would meet me when and where I pleaſed; in conſequence of which, Mr. Anbury, accompanied by

by another gentleman, was diſpatched to Colonel Showers.

Q. Did you know on the 5th of January, or in the conrſe of the forenoon of the 6th of January, of any letter written on the 5th of January by me to Mr. Goſcoigne, the purport of which was, that I incloſed him an open letter for Mr. Anbury, which I deſired him, Mr. Gaſcoigne, to peruſe, and afterwards to ſeal and deliver with his own hands; and further, begged of him, Mr. Gaſcoigne, to be my ſecond?

A. I did hear: I think from circumſtances it was in the afternoon of the 5th of January, that an application to ſuch an effect had been made to Mr. Gaſcoigne by the Priſoner.

Q. Do you recollect from whom you heard this?

A. I do not.

Queſtion by the Court.

Q. Did you know between the 5th and the morning of the 6th of January, whether any anſwer had been ſent by Mr. Gaſcoigne to the foregoing application to him from the Priſoner?

A. I heard an anſwer had either been given perſonally or ſent?

Queſtions by the Priſoner.

Q. Did you hear to what effect the anſwer had been?

A. Yes.

A. Yes.

Q. To what effect was it, as you heard it?

A. That he, Mr. Gaſcoigne, had declined as the Priſoner's ſecond.

Q. When did you know of an anſwer to this effect having been ſent by me to Mr. Gaſcoigne?

A. From circumſtances I think it was in the afternoon of the 5th of January.

Q. Do you know of any letter having been ſent by me to Mr. Gaſcoigne, on the evening of the 6th of January laſt, and when did you firſt hear of ſuch letter being ſent?

A. I have heard of a letter being ſent, but am poſitive I did no hear it till ſome time after the Priſoner had been put under an arreſt.

Queſtion by the Court.

Q. Do you recollect from whom you received information of ſuch a letter having been ſent by the Priſoner to Mr. Anbury, on the evening of the 6th of January?

M. I do not immediately recollect whether it was from Mr. Anbury, or from ſome other perſon.

Queſtions by the Priſoner.

Q. Are your ſure that you did not hear from Mr. Anbury himſelf, on the evening of the 6th of January, that he had received a letter from me on that evening?

A. Perfectly ſure, for I did not ſee him any

part of that evening, nor till eleven the next morning on the 7th of January.

Q. Do you know at what time on the 6th of January, the letter juſt referred to was received by Mr. Anbury?

A. I heard from Mr. Anbury, that a letter had been brought to him between ten and eleven at night, on the 6th of January, when underſtanding that it had come from Colonel Showers, he, Mr. Anbury, had returned it unopened.

Q. Do you know whether Mr. Anbury returned the letter in queſtion to me with a note from himſelf?

A. I do not.

It being on the ſtroke of three, the Court adjourned to ten o'clock to-morrow morning, Thurſday, the 3d of February,

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At an European General Court Martial, held at Fort William, purſuant to adjournment, on Thurſday, the 3d of February, 1791.

Preſent as yeſterday.

The Court meeting perſuant to adjournment, the Priſoner was brought before them, and the Sheriff's orders produced as uſual.

Lieutenant O'Halloran was called into Court and further examined.

Queſtion by the Priſoner.

Q. You ſaid yeſterday, that on the 5th of January

uary laſt, hearing the purport of a letter from me to Mr. Anbury, you had immediately diſpatched Mr. Anbury, acccompanied by another gentleman; for what purpoſe did he accompany Mr. Anbury?

A. The gentleman, Enſign Macnamara, was requeſted by Mr. Anbury, at my deſire, to attend him, Mr. Anbury, in order that Colonel Showers ſhould have no excuſe, or evaſion, for refuſing me the ſatisfaction I had ſo repeatedly demanded, having heard that the Priſoner had already been refuſed by Major Vanas and Lieutenant Gaſcoigne.

Queſtion by the Court.

Q. Had you any reaſon to believe that Enſign Macnamara was a friend of Colonel Showers, and that Colonel Showers would accept of him in the character of a ſecond?

A. I did not know that he was acquainted with Colonel Showers; but, I conceived, that if Colonel Showers was inclined to give me the meeting, he would have no objection to any gentleman who could be provided.

Queſtions by the Priſoner.

Q. At what hour on the 6th of January laſt, did you apply to have me put under an arreſt?

A. At three o'clock in the afternoon.

Q. Do you know when I was actually put under an arreſt?

A. Between eight and nine the following morn-

ing, the 7th of January, I was informed, by the Adjutant General, that he had, that morning, put the Priſoner under an arreſt.

Q. Was it before or after your application to have me put under military arreſt, that you applied to the civil power for a writ againſt me?

A. After.

Queſtions by the Court.

Q. You have ſaid, that you did not ſee Mr. Anbury any part of the evening of the 6th of January, or till near eleven o'clock in the forenoon of the 7th; when you ſaw Mr. Anbury about eleven on the 7th of January, do you recollect whether he did, or did not, at that time, inform you of the circumſtance of his having received a letter the preceding night from Colonel Showers, which he had returned unopened?

A. *I do not recollect whether he did or not.*

Q. You have ſaid, that you had been repeatedly refuſed by the Priſoner, that ſatisfaction you had demanded of him; be pleaſed to ſtate to the Court, the number of times you required the ſatisfaction alluded to?

A. Mr. Anbury waited on the Priſoner, by my deſire, five times in all; the firſt time, which was on Tueſday the 4th of January, about five in the morning, to the laſt, which was on Thurſday the 6th, when he read the letter to the Priſoner, which has appeared in evidence.

Q. Particularize thoſe times?

A. Once

A. Once on Tueſday morning early, the 4th of January, again on the afternoon of the ſame day, a third time early on Wedneſday morning the 5th, again on the evening of the ſame day, and laſtly, about 12 o'clock, on Thurſday the 6th, when my letter was read to him.

Q. What was the purport of the firſt meſſage ſent by you to the Priſoner, through Mr Anbury, on Tueſday morning, the 4th of January, and what was the reſult of it?

A. The meſſage ſent by me was, that I was fully acquainted with his, the Priſoner's baſe conduct, and required that reparation which my wrongs demanded. The anſwer I received, through Mr. Anbury, was, that the Priſoner would write to him, Mr. Anbury, in the courſe of the day, of this determination; upon which Mr. Anbury told him, that he ſhould return to his quarters, where if he did not hear from him by four or half paſt four in the afternoon, he would call upon him, the Priſoner, again.

Q. What was the purport of the ſecond meſſage ſent by you to the Priſoner through Mr. Anbury, on the afternoon of Tueſday the 4th of January, and what was the reſult of it?

A. Mr. Anbury waited on the Priſoner, to demand a reply to the meſſage which had been delivered to him in the morning. Mr. Anbury coming back, informed me, that he had been to Colonel Showers, who had obſerved to him, that he knew what he came about, but that on the whole

whole he could obtain from him no coherent ſatisfactory anſwer.

Q. What was the purport of the third meſſage ſent by you to the Priſoner through Mr. Anbury, on Wedneſday morning, the 5th of January, and what was the reſult?

A. The purport and object of my third meſſage was as before, and the reſult was a poſitive refuſal to meet me.

Q. What was the purport of the fourth meſſage ſent by you to the Priſoner through Mr. Anbury, on the evening of Wedneſday the 5th of January, and what was the reſult of it?

A. The fourth time of Mr. Anbury's going, was in conſequence of Colonel Showers's letter mentioned in my evidence of yeſterday, which was received by Mr. Anbury about five o'clock in the afternoon of the 5th of January; the purport of it being (as before ſtated) that the Priſoner was ready to meet me when and where I pleaſed. Mr. Anbury returning from Colonel Showers, informed me he could bring Colonel Showers to no determination whatever; that the Priſoner had declined accepting his offer, of a gentleman to attend him in the field, but had told him, that he ſhould very early the next morning acquaint him, who the gentleman was, that he had pitched upon for that purpoſe.

Q. Did the Priſoner to your recollection, inform Mr. Anbury accordingly, the following morning early?

A. Mr.

A. Mr. Anbury informed me that he had waited at home the following morning, Thurſday the 6th of January till ten o'clock, in expectation of hearing from Colonel Showers, according to the promiſe given him the night before by the Priſoner, but that he had not to that time heard from the Priſoner.

Q. Did you know between the delivery of your firſt meſſage to me, the morning of the 4th of January and the delivery of your ſecond meſſage on the ſame day of Mr. Anbury's having received a letter from me to this effect?

Dear Sir,

I will certainly do every thing Mr. O'Halloran wiſhes, but having a large family, I require ſome time to ſettle my affairs and buſineſs, &c.

A. I do not recollect having heard of ſuch a letter.

Q. Do you know of any letter from me to Mr. Anbury, on the occaſion of his third viſit to me on the morning of the 5th of January, to the effect of him, (Mr. A.) not underſtanding what had paſſed between us that morning as a refuſal on my part to meet Mr. O'Halloran, and telling him I would fix a time as ſoon as poſſible?

A. I recollect Mr. Anbury's having received a letter from the Priſoner on that occaſion, for the contents of the letter, I beg leave to refer to the letter itſelf, which I will endeavour to procure to-morrow.

Q. You have told the Court, that you were

obliged

obliged to wander about Calcutta in diſguiſe, from the 4th to the 8th of January, to avoid the purſuit of the Sheriff's Officers; where did you receive during that time, the anſwers brought you by Mr. Anbury from the Priſoner, and did you receive ſuch anſwers in the preſence a third perſon?

A. I received them in Calcutta, ſome in one place, and ſome in another, ſome by letter, and ſome by perſonal communication, whether a third perſon was at any time preſent on any of thoſe occaſions, is a point I cannot charge my memory with.

Captain Thornhill was next called into Court, by deſire of the Priſoner, and being duly ſworn, was examined as follows:

Q. Did I at any time apply to you to try to prevail on Mrs. Showers to withdraw the warrant ſhe obtained againſt Lieutenant O'Halloran?

A. Yes.

Q. Do you recollect on which day, and at what time I made ſuch application to you?

A. I do not recollect the day, but the time was about three and four in the afternoon.

Q. Was any perſon beſides the Priſoner and yourſelf preſent, when he made ſuch application?

A. My ſon was preſent.

Q. Did you accordingly make ſuch application to Mrs. Showers?

A. I did.

Q. What

Q. What was the reſult of your application to Mrs. Showers?

A. She ſaid ſhe would withdraw the warrant.

Q. Do you know whether Mrs. Showers took any ſteps accordingly, for withdrawing the warrant?

A. I do not.

Queſtions by the Proſecutor.

Q. Do you recollect ſeeing Mr. Anbury at Colonel Showers's houſe in the afternoon of Tueſday the 4th of January?

A. I recollect ſeeing Mr. Anbury there one evening, but have forgotten the day.

Q. Do you recollect having any converſation with Mr. Anbury at that time?

A. I had a little converſation with him.

Q. Did you not tell Mr. Anbury, that you had uſed your utmoſt endeavours to prevail on the Priſoner to meet Mr. O'Halloran, but without effect, or words to that effect?

A. I am ſure there was no converſation with Mr. Anbury to that effect.

Q. Did you on the evening of your meeting with Mr. Anbury at the Priſoner's, tell him, Mr. A. that you was much obliged to him for his conduct in the Priſoner's family, and that you would rather ſee him, weltering in his blood, than he ſhould have diſgraced it, or words to this effect?

A. No converſation of this ſort paſſed on that evening.

Q. Did ſuch converſation paſs between Tueſday the 4th, and Thurſday the 6th of January?

A. In confidence, Mr. Anbury and I had ſome converſation within the day or two, after I had ſeen him at Colonel Showers's, in which I did tell him that I was obliged to him for his conduct in the buſineſs, that Colonel Showers did not decline going, but had mentioned he would clear up the conduct of Mrs. O'Halloran firſt, and that I would rather have ſeen him dead, he being an officer, than that he ſhould not have gone out with Mr. O'Halloran firſt.

Q. Did you tell Mr. Anbury any time before the Priſoner's being put under an arreſt, that you had uſed your utmoſt endeavours to prevail on him, the Priſoner, to meet Mr. O'Halloran without ſucceſs, or words to that effect?

A. No I never did.

Queſtion by the Priſoner.

Q. Did I not tell you ſome days before I was put under an arreſt, that I fully intended to go out with Mr. O'Halloran that day or the next, and that I always intended it?

A. I always underſtood from every converſation I had with the Priſoner, that it was his firm intention to go out with Mr. O'Halloran, and I always believed after the firſt day that ſuch was his intention; but I do not recollect his informing me of his having fixed any time for his doing ſo.

It being on the ſtroke of three, the Court adjourned to ten o'clock to-morrow morning, Friday the 4th of February.

At an European General Court Martial, held purſuant to adjournment at Fort William, on Friday the 4th of February, 1791.

Preſent as Yeſterday.

The Priſoner being brought into Court, and the Sheriff's order produced as uſual.

Lieutenant O'Halloran produced the letter from the Priſoner, to Mr. Anbury, to which he referred in his evidence of yeſterday, and which he therein ſaid, he would endeavour to produce to day.

In this place the letter was read, and ordered to be entered as follows.

"SIR,

"I have to requeſt you will not underſtand my anſwer to day, as refuſing to meet Mr. O'Halloran, I ſaid I would not for particular reaſons, *yet*, as I have things of moment to do, which will of courſe take up ſome time."

Your very Obedient Servant,

July 5th. Signed S. H. SHOWERS.

Indorſed "Lieut. Colonel Showers," received 5th of January 1791, at a quarter paſt ten o'clock, by the hands of Mr. Gaſcoigne.

Mr. Thornhill, junior, was then called, on the part of the Priſoner, and being duly ſworn, was examined as follows.

Queſtions by the Priſoner.

Q. Did you attend your Father Captain Thornhill, to Colonel Showers's about three o'clock in the afternoon of Thurſday the 6th of January laſt?

A. I Did.

Q. Did you at that time, hear me requeſt of Captain Thornhill, to uſe his endeavours to prevail on Mrs. Showers to withdraw the warrant ſhe had taken out againſt Lieutenant O'Halloran?

A. I do not recollect hearing the Priſoner deſire my father to do ſo, but I was preſent when my father during that viſit, did apply to Mrs. Showers for that purpoſe.

Q. Did you make the ſame application to Mrs. Showers?

A. I did.

Q. Did you hear Mrs. Showers promiſe vour father ſhe would withdraw the warrant next morning?

A. I did not hear her promiſe it, but went away with a full perſuaſion ſhe would do ſo, and underſtood as much from my father.

Queſtion by the Court.

When you made the application you have mentioned,

tioned, to Mrs. Showers, did you ſo in conſequence of underſtanding it to be the particular wiſh of Colonel Showers, that the warrant ſhould be withdrawn?

A. It was not in conſequence of any application of the Priſoner to me, but becauſe I thought it would be to his intereſt and credit, that the warrant ſhould be withdrawn?

Q. From what circumſtances did you go away under the full perſuaſion that Mrs. Showers would apply to have the warrant againſt Mr. O'Halloran withdrawn.

A. Partly from Mrs. Showers's converſation, but chiefly from what my father had told me.

Queſtions by the Priſoner.

Q. Did you hear me ſay during this viſit, that I thought it very ſtrange ſuch a letter ſhould be addreſſed to me, as the one which had been read to me about noon by Mr. Anbury, after the letter which I had ſent to Mr. Anbury early that morning?

A. I did hear the Priſoner expreſs ſurpriſe at ſuch a letter having been read to him, but I underſtand that by the letter ſtated in the queſtion, as having been ſent that morning to Mr. Anbury the preceding day, the 5th of January, in which he had told him (Mr. A.) that he was ready to meet. Mr. O'Halloran, when and where he pleaſed.

Q. Did you at this viſit hear me ſay, that I expected Mr. Greene and Mr. Anbury would meet

that

that evening, viz. the evening of the 6th of January, and for what purpoſe did you underſtand ſuch meeting was to take place?

A. I did hear the Priſoner ſay, that he expected the two Gentlemen would meet my father and myſelf that evening, at his, the Priſoner's houſe; and I underſtand, it was intended by the Priſoner to read at that meeting, a paper in which he utterly denied having had any connection with Mrs. O'Halloran.

Q. Did you underſtand there was any other end propoſed in this meeting, beſides that you have mentioned?

A. Yes, that Mr. Anbury would fix the time and place for meeting Mr. O'Halloran.

Queſtions by the Court.

Q. Did you know whether or not theſe Gentlemen, viz. Mr. Anbury and Mr. Greene, met at the Priſoner's that evening as expected?

A. They did not while I remained, nor did they I believe, after I left the priſoner's.

Q. When did you leave the Priſoner's houſe?

A. About half paſt five in the afternoon.

Q. Did you during this viſit, hear the Priſoner account for his having ſent any meſſage to Mr. O'Halloran, in reply to the letter which had been read to him by Mr. Anbury, and at which the Priſoner you have ſaid, expreſſed his ſurpriſe.

A. I underſtand from the Priſoner, that he had told Mr. Anbury, that he was aſtoniſhed that he did

did not know what anſwer to make, and the letter he had written to Mr. Anbury, by which I mean the letter which I before ſaid, I underſtood to have been ſent by the Priſoner, to Mr. Anbury the preceding day, the 5th of January.

Q. Did Colonel Showers inform you during this viſit, of Mr. Anbury's having called on him the preceding afternoon or evening?

A. No, he did not.

Q. Do you know, or have you reaſon to believe that Col. Showers had made any arrangement of his affairs, in conſequence of his intention to meet Mr. O'Halloran?

A. I did underſtand from Colonel Showers himſelf, that he, Colonel Showers, had made an arrangement of his affairs, and was prepared from the time he had wrote the letter to Mr. Anbury, before mentioned in my evidence, to meet Mr. O'Halloran, expecting every hour that Mr. Anbury would fix the time for that purpoſe.

Queſtion by the Proſecutor.

Q. Do you know whether Mr. Anbury waited on the Priſoner the afternoon of the 5th of January, in conſequence of the Priſoner's intimation to him, Mr. Anbury, by letter that day, and to which letter you have referred in your evidence, that he was ready to meet Mr. O'Halloran when and where he pleaſes?

A. I do not know that he did.

The Witneſs withdrawing.

Lieu-

Lieut. Gaſcoigne was duly ſworn and examined.

Queſtions by the Priſoner.

Q. Do you recollect being at my houſe, on the morning of the 4th of January laſt?

A. I recollect being there one morning at breakfaſt time, but really cannot ſay whether it was the 4th or 5th of January, but I remember that Mr. Anbury was there at the ſame time.

Q. Did I after Mr. Anbury had gone away, deſire you to carry a meſſage from me to that gentleman?

A. No, not to Mr. Anbury, but to Mr. O'Halloran, whom the Priſoner ſaid he very much wiſhed to ſee on particular buſineſs.

Q. Did you not tell me, that if I ſent any letter to your quarters, you would take care it ſhould be conveyed to its addreſs?

A. I did tell the Priſoner during this viſit, that I would let my *claſhies** carry any letter he might ſend to my quarters.

Q. Did any letter or letters accordingly come from me to your quarters, for the purpoſe of being forwarded?

A. I Did receive two letters from Colonel Showers, for the purpoſe of being forwarded to Mr. Anbury.

Q. Do you recollect at what time you received ſuch letters?

A. I do not recollect the day on which the firſt of

* *Claſhies*—a kind of military labourers, uſually attached to artillery; but alſo employed in domeſtics ſervices.

of them was received; but it was opened, accompanied by one to myſelf, deſiring me, after peruſing that addreſſed to Mr. Anbury, to ſeal and forward it; and alſo requeſting, that I would be his ſecond. I accordingly forwarded the letter by one of my ſervants; but in anſwer from myſelf to Colonel Showers, declined acting as his ſecond.

Q. Did you read the open letter addreſſed to Mr. Anbury by me, and if you read it, what was the purport of it?

A. I did read it, and the purport of it was generally, that he, the Priſoner, was ready to go out with Mr. O'Halloran.

Q. *(Producing the note.)* Is this the anſwer you have ſaid you ſent to my letter, requeſting you to forward one to Mr. Anbury, and deſiring you to be my ſecond?

A. It is.

The note was read, and ordered to be inſerted in this place; the following being the terms of it:—

DEAR SIR,

You muſt excuſe my complying with your requeſt, it being an office in which I wiſh to have no concern whatever.

Jan. 5, 1791. Yours truly,
Wedneſday noon. (Signed) J GASCOIGNE.

Q. The note expreſſes, that it was written at noon, when did you actually ſend it, and by whom?

 A. About

A. About an hour after, and by Colonel Showers's own ſervant, as far as I know; having given it to one of my own ſervants, but which of them I cannot recollect, for the purpoſe of his delivering it to the ſervant of Colonel Showers, who had brought me the Colonel's note.

Q. What time elapſed between your receiving my letter accompanied by that for Mr. Anbury, and your actually diſpatching the letter to him.

A. I diſpatched it much about the ſame time that I wrote this anſwer, which has appeared, to Colonel Showers.

Queſtions by the Court.

Q. Did the ſervant by whom you forwarded that letter to Mr. Anbury, inform you of his having declined it?

A. He did.

Q. At what time did he inform you?

A. I did not ſee the ſervant till the evening, when he told me of his having delivered the letter.

Q. Do you recollect at what time you received the ſecond of the letters ſent by me, for the purpoſe of being forwarded to Mr. Anbury?

A. It was in the forenoon of the 6th of January.

Q. Was that letter accompanied by a note from Colonel Showers to yourſelf?

A. It was accompanied by a note to myſelf, deſiring

deſiring that I would forward that to Mr. Anbury.

Q. Was the ſecond letter, addreſſed to Mr. Anbury, and ſent to you for the purpoſe of being forwarded to him, accordingly forwarded by you to Mr. Anbury?

A. It was.

Q. Do you recollect the hour in the forenoon on the 6th of January, when you received the letter now in queſtion, and the hour when you forwarded it to Mr. Anbury?

A. I cannot ſpeak to the hour; I can only ſay, that I received it before noon, and that I diſpatched it immediately on my receipt of it,

Q. Was this ſecond letter to Mr. Anbury open as the former one was, or do you know the contents of it?

A. It was not open nor do I know the contents of it

Queſtions by the Priſoner.

Q. Did you receive from me, on the 5th of January, about three or four o'clock in the afternoon, a note, requiring to know whether you had forwarded the letter, which had been ſent by me in the morning, for the purpoſe of your forwarding it to Mr. Anbury?

A. I received two notes together to that effect, one from Mrs. and the other from Colonel Showers; but it was as late in the afternoon of the 6th, as about a quarter of an hour before ſun-ſet.

Immediately upon receipt of theſe two notes, I got into my buggy and drove to Colonel Showers, to whom I returned the letter he had ſent me in the forenoon for Mr. Anbury, informing him, that my ſervant not being able to find Mr. Anbury, brought it back to me; at the ſame time I requeſted of the Priſoner, that he would not, in future, ſend me any more letters on this buſineſs, for the purpoſe of forwarding them to Mr. Anbury. To what I thus ſaid, the Priſoner replied, "It is of no conſequence;" which anſwer I conceived to apply to the circumſtance of the letters not being delivered to Mr. Anbury.

Q. At what part of the houſe was it that you returned me my letter to Mr. Anbury?

A. In the room that Colonel Showers generally wrote in.

Q. Did we not ſit together ſome time after in the *veranda?* *

A. Yes.

Q. Whether it was in my writing room or *veranda* that I made uſe of the words, "It is of no conſequence?"

A. In both.

Q. Did I not, in the *veranda*, enter into an explanation with you of my reaſons for having ſent the letter for Mr. Anbury to you?

A. No; I did not ſtay more than a few moments after Colonel Showers came into the *veranda*, and

* *Veranda*—a gallery, or balcony.

and during that time, my converſation was confined to Mrs. Showers and to Miſs Young.

Q. Then what could be the occaſion of my repeating in the *veranda* the words, "It is of no conſequence?"

A. To the beſt of my recollection it was occaſioned by Mrs. Showers mentioning the letter.

Queſtion by the Court.

Q. Did the Priſoner appear diſpleaſed at the letter not having been delivered to Mr. Anbury?

A. He did not at all appear diſpleaſed.

Queſtions by the Priſoner.

Q. When you returned the letter to me, and informed me, that your ſervant could not find Mr. Anbury, did not you immediately add a requeſt, that I would not ſend you any more letters, before I replied by the words, "It is of no conſequence?"

A. The words—"It is no conſequence,"—were immediately ſpoken after I had told him, that I wiſhed he would ſend me no more letters.

Q. Then what reaſon have you for applying the words—"It is of no conſequence" to the former rather than the latter part of what you ſaid to me on returning me the letter?

A. I received the impreſſion from the circumſtance of having got two notes, the one from the Colonel, the other from Mrs. Showers, to know whether

whether my ſervant had delivered the letters to Mr. Anbury or not.

Adjourned till ten o'clock to-morning, Saturday, February 5.

At a General European Court Martial, held at Fort William, purſuant to adjournment, on Saturday, the 5th of February, 1791.

Preſent as yeſterday.

The Priſoner being brought into Court, and the Sheriff's orders produced as uſual.

Lieutenant Gaſcoigne was again called into Court, when he requeſted to give a further anſwer to the laſt queſtion put to him yeſterday than it was then in his power to do. His requeſt being complied with by the Court; and the queſtion being accordingly repeated, was replied to as follows:—

I received the impreſſion from the circumſtance of having received two notes together; the one from Colonel Showers, the other from Mrs. Showers, deſiring to know whether my ſervant had delivered the letter to Mr. Anbury or not, which led me to think, that the point concerning the delivery of that letter, was the uppermoſt in the Priſoner's mind. This conſideration, joined to the Priſoner's coolneſs, when I returned the letter, made me think that the words, "Is of no

conſequence,"

conſequence," referred to the letters not being delivered.

The Witneſs withdrawing.

Lieutenant Robert Greene was ſworn and examined.

Queſtions by the Priſoner.

Q. Did you receive any letter from Mrs. Showers late on the 5th of January, and if you did, what was the purport of it?

A. I did receive a letter dated the 5th of January, ſigned *Melian Showers*, by the hands of a ſervant, who, to the beſt of my recollection, informed me, it came from Colonel Showers.

[The witneſs lays the letter before the Court, a copy of it is here inſerted.]

My Dear Greene,

You will oblige me greatly, if you will come and ſtay with me one or two days; for God's ſake do not *refuſe me*; I am in the utmoſt diſtreſs and want a friend near me; I ſhall ever eſteem it the greateſt kindneſs. My affectionate love to Mrs. Greene and Miſs Daniel; believe me, with much regard,

My dear Greene,

Your ever obliged,

Jan. 5. 1791. (Signed) Melian Showers.

Q. Was any anſwer ſent to this letter?

A. A reply was given in part by myſelf.

Q. Was this the anſwer ſent? (Producing the letter.)

Q. This

A. This was the anſwer I ſent, (the letter was then read and ordered to be inſerted in this place) and was as follows:

"Would to God my dear friend, it were in my power to alleviate your diſtreſſes, or afford you that relief which your preſent ſituation ſtands ſo much in need of, no man living has your welfare more at heart than I have, and as far as with honor to myſelf, and that duty I owe to my family, if my ſervices and advice can in any meaſure tend to eaſe your mind, you may at all times command them. In the preſent inſtance, were I to comply with your requeſt, the moſt ſerious conſequences might enſue, and however painful it is to me to decline a complicance therewith, the extreme delicacy of Miſs Daniel's ſituation at this moment, and the reſponſibility which I conſider myſelf under to her parents and relations at home, are reflections which muſt ſeparate every other conſideration.

"The ſhock which this melancholy event has given Mrs. Greene, the extreme uneaſineſs which ſhe feels for you, and her anxiety for your future happineſs, prevents her appearing in public, and Miſs Daniel's ſituation being equally diſtreſſing, render it impoſſible for me to leave her. Mrs. Greene and Miſs Daniel, deſire me to aſſure you how ſincerely they wiſh you well, and that you may ſoon enjoy the bleſſings of a mind at eaſe, is the fervent prayer of

Dum-Dum, Your affectionate Friend,

Jan. 6th, 1791. (Signed) ROBERT GREENE."

Queſ-

Queſtions by the Court.

Q. Did you reply to the letter from Mrs. Showers, which has been produced on the ſame day that you received it?

A. I did.

Q. Do you recollect the time of the day at which you diſpatched the reply, that has appeared?

A. To the beſt of my memory, it was before Three in the afternoon.

Q. Do you recollect the time of the day on which you received Mrs. Showers's letter?

A. Not exactly, but I think it was after breakfaſt.

Q. At what time do you ſuppoſe you breakfaſted that morning?

A. I cannot exactly ſay, but I do not think it was before nine.

Queſtions by the Priſoner.

Q. Did you underſtand there was any other object in ſending for you, beſides that immediately expreſſed in her letter, viz. the keeping her company?

A. I muſt have underſtood, that ſome other object was propoſed from the circumſtance of my advice being required.

Q. Did you underſtand either from the tenor of Mrs. Shower's letter, or from any other circumſtances, that I wiſhed you to act as my ſecond, on occaſion of my meeting Mr. O'Halloran?

A. I could underſtand the letter to have convey-

ed another meaning than what the words of it expreſsly convey: With reſpect to the words, "or from any other circumſtances," I have reaſon to believe from report, Colonel Showers had declared his intention of applying to me to be his ſecond in a diſpute, that according to report, made it neceſſary for him to make ſuch an application.

Queſtion by the Court.

Q. Did Mrs. Showers's letter, combined with the circumſtances, convey to your mind an idea, that the object of it was finally to bring you to Colonel Showers for the purpoſe of enabling Colonel Showers to requeſt of you to act as his ſecond?

A. I had an idea that ſuch might have been the caſe.

Queſtions by the Priſoner.

A. Had you any intimation that my carriage was waiting for you, on the 6th of January, at any place; and if you had where did you underſtand it to be waiting?

A. I had been informed by the *haccarrah** who delivered the letter from Mrs. Showers, which I have laid before the Court, that a carriage was ſent for the purpoſe of conveying me to Colonel Showers's garden, and underſtood from the ſame man that it was waiting on the Dum Dum road.

Q. Did you not receive a note from Mr. Anbury on Wedneſday the 5th at night, informing you that he underſtood Colonel Showers intended to apply to

* *Harcarrah*—a meſſenger.

to you to come to Calcutta, for the purpoſe of accompanying him to meet Mr. O'Halloran?

A. I did receive a note from Mr. Anbury to the effect ſtated, but do not recollect the day of my receipt of it.

Queſtion by the Court.

Q. Do you recollect whether it was before or after the diſpatch of your anſwer to Mrs. Showers's letter?

A. It was before to the beſt of my recollection, it was on the preceding evening while at ſupper.

Queſtions by the Priſoner.

Q. Did Mr. Anbury in that note, particulariſe and earneſtly requeſt, that if Colonel Showers had applied or ſhould apply to you for ſuch purpoſe, you would acquieſce in his requiſition, and further ſay, that it was Mr. O'Halloran's earneſt deſire you ſhould acquieſce, and that in ſo doing, you would confer a favor on both Mr. O'Halloran and Mr. Anbury, or words to that effect?

A. Such was the purport of the note.

Q. Did you return an anſwer to that letter of Mr. Anbury?

A. I did.

Q. At what time did you ſend this anſwer to Mr. Anbury's note?

A. I anſwered it almoſt immediately after my receipt of it.

The evidence withdrawing.

Enſign Anbury was again called into Court and examined.

Q. Did you receive any letter from me early in the evening of the 6th of January laſt?

A. There was a letter brought to me that evening about Seven o'clock, by a man who called himſelf Colonel Showers's ſervant.

Did you open and read that letter?

A: *I did not open or read it.*

Q. Did you break the ſeal of that letter?

A. I did break the ſeal, but did not take the letter out of the cover?

Queſtion by the Court.

Q. For what purpoſe did you break the ſeal, and not take the letter out of the cover.

A: At the time I received the letter I was writing, and broke the ſeal without reflecting from whom it might be, I enquired however in the ſame moment, who had brought the letter, my ſervants informing me that it had been brought by a ſervant of Colonel Showers, I then encloſed it in a cover, and returned it to Colonel Showers.

Queſtion by the Priſoner.

(Producing the note) was this the note you wrote to me, in which you encloſed me my letter to you?

A. It was.

The note was here read, and ordered to be inſerted in this place, being as follows.

SIR,

"SIR,

"I cannot now receive any more letters from you.

I am,

SIR,

Your Obedient Humble Servant,

(Signed) THOMAS ANBURY."

Half paſt 7 o'clock,
9th of January, P. M. 1791.

Directed to Lieutenant Colonel Showers.

Queſtion by the Court.

Q. What reaſon had you for not opening the Priſoner's letter to you?

A. Being made acquainted that Mr. O'Halloran had delivered in a charge to the Adjutant General againſt the Priſoner, I conſidered myſelf as exonerated from any other concern in the buſineſs.

Q. How long after your returning Colonel Showers's letter, was it before you ſaw Lieutenant O'Halloran?

A. I ſaw him next morning, I think it might be between ten and eleven.

Q. Did you at this time inform Mr. O'Halloran of your having received a letter from Colonel Showers the preceding evening, and of your having returned it to him unopened?

A. I do not recollect mentioning it, therefore I did not.

Q. Had you between your returning the letter, and meeting

meeting Mr. O'Halloran the following morning, informed Mr. O'Halloran by note or otherwiſe, of your having received ſuch a letter?

A. I had not.

Q. Were you empowered by Mr. O'Halloran, to carry a meſſage to Colonel Showers on Tueſday morning the 4th of January?

A. I was.

Q. What was the purport of the meſſage with which you were charged by Lieutenant O'Halloran on this occaſion.

A. To require reparation of the Priſoner for the wrongs he, Mr. O'Halloran had ſuſtained from the Priſoner.

Q. What anſwer did you receive to this meſſage from the Priſoner?

A. I received no definite anſwer at that time, but was told by Colonel Showers, I ſhould hear from him in the courſe of the day, upon which I informed him, that if I did not hear from him by four o'clock, I ſhould again wait on him.

Q. Did you accordingly hear from the Priſoner?

A. I did not, and in conſequence waited on the Priſoner again about five o'clock in the afternoon of the ſame day.

Q. Did you then apply for an anſwer to the meſſage you had delivered to him in the morning?

A. I did.

Q. Did

Q. Did you receive any anſwer, and if you did what was it?

A. I did receive an anſwer which was, that he, the Priſoner, would not—by God, he would not go out with Mr. O'Halloran, but that if I choſe it, he would fight me immediately.

Q. Did you receive this anſwer in the preſence of any other perſon?

A. I received this anſwer in the garden, and to the beſt of my belief, not in the hearing of any other perſon.

Q. Did you carry any other meſſage from Mr. O'Halloran to the Priſoner, and when?

A. I did the next morning, Wedneſday the 5th of January, between 7 and 8 o'clock.

Q. To what effect was the third meſſage?

A. The ſame effect as the former.

Q. What anſwer did you receive to it?

A. The Priſoner informed me, that he requeſted ſome time for ſettling his affairs, and getting a friend to attend him, on which I urged a ſpeedy concluſion to the buſineſs, as Mr. O'Halloran's ſituation was particularly hurtful to him, Mr: O'Halloran, both as to his feelings, and his public ſituation, on account of a writ which was then out againſt him, that prevented him from appearing in public, or attending his duty.

Q. What reply did the Priſoner make to this expoſtulation?

A. With reſpect to the warrant, he ſaid that it had been taken out by the women, and was a

mere

mere matter of moonſhine, and that Mr. O'Halloran need be under no apprehenſion on that account.

Q. Did you obtain any further anſwer from the Priſoner?

A. Yes, that I ſhould hear from him in the courſe of the day.

Q. Did you accordingly hear from him in the courſe of the day?

A. I did about five o'clock in the afternoon of that day, Wedneſday the 5th of January.

Q. What was the meſſage you received from him?

A. (Producing the note) I received the note from him.

"SIR,

"Having ſettled the buſineſs nearly, which occaſioned the delay I ſpoke of, I am ready to meet Mr. O'Halloran when and where he pleaſes.

I am, &c.

(Signed) S. H. SHOWERS."

January 5th, 1791.

Q. How did you proceed on the receipt of this letter?

A. I immediately proceeded to Colonel Showers's, where I arrived between ſix and ſeven in the evening.

Q. Did

Q. Did you ſee the Priſoner, and if you did, what paſſed between you at that time?

A. I did ſee him: He obſerved to me, that he was diſappointed in the attendance of his friend, but in the courſe of three or four days, or as ſoon as he could, he would procure a friend for the occaſion; that he had written and expected an anſwer.

It being on the ſtroke of three, the Court adjourned till ten o'clock in the morning, on Tueſday the 8th of February.

TUESDAY, FEBRUARY 8.

Preſent as before.

The Priſoner being brought into Court, the Sheriff's order was produced as uſual.

Enſign Anbury was again called into Court, and examined.

Queſtions by the Proſecutor.

Q. Did you, on your third viſit to the Priſoner, on Wedneſday morning, the 5th of January, receive a poſitive refuſal to meet me from the Priſoner?

A. I did; and it was on occaſion of my repreſenting to the Priſoner, that his conduct in the buſineſs appeared evaſive, and that it was very inconvenient to me to be going backwards and forwards ſo often; that I therefore wiſhed for

ſome poſitive anſwer; to this the Priſoner replied, that he would not meet Mr. O'Halloran.

Queſtion by the Court.

Q. Did not you receive this letter (Producing a letter beginning with the words, "Sir, I requeſt you will not underſtand my anſwer to-day, &c.") ſoon after leaving the Colonel, on Wedneſday morning the 5th of January?

A. I did receive the letter from the Priſoner about three hours after I had left him, and I left him about ſeven in the morning.

Queſtions by the Judge Advocate.

Q. Were you accompanied when you waited on the Priſoner in the evening of Wedneſday the 5th of January by any perſon?

A. I was.

Q. By whom were you accompanied?

A. By Mr. Macnamara.

Q. For what purpoſe were you accompanied on this occaſion by Mr. Macnamara?

A. It was owing to my having underſtood that Mr. Gaſcoigne had refuſed to attend the Priſoner as a friend, and to a deſire of avoiding further delay, that I got Mr. Macnamara to accompany me, in order that I might offer his ſervices to the Priſoner.

Q. Did you offer the Priſoner, at this viſit, the ſervices of Mr. Macnamara, and if you did, how did the Priſoner receive the offer?

A. I

A. I did not mention the name of Mr. Macnamara to the Priſoner, but told him, that if he was not provided with a friend, I would either carry a letter from him to any perſon he choſe in Calcutta, or believed I could, if he judged it neceſſary, provide him a gentleman; the Priſoner declined accepting either propoſals.

Queſtion by the Court.

Q. Did the Priſoner aſſign any reaſon for declining your propoſals?

A. No other than his having written or ſaying, he would write to a friend for the purpoſe. I urged, that it ought to be as ſpeedily fixed as poſſible, ſince the conſequence to him might be more ſerious than he was aware of.

Queſtions by the Judge Advocate.

Q. Did the Priſoner give you any reaſon to expect to hear further from him very early next morning, Thurſday the 6th of January, and if he did, to what effect was the meſſage to be?

A. He did; he promiſed I ſhould hear from him in the morning, as ſoon as he had heard from the friend to whom he had written, or was to write; in conſequence of which I waited at home next morning, Thurſday the 6th of January, without receiving any meſſage or note from him, as promiſed.

Q. Did you receive any note or letter from the Priſoner between the delivery of the firſt meſſage to him, on Tueſday morning, the 4th of January,

and your waiting on him a ſecond time that day?

A. I did not.

Q. When you waited on the Priſoner the ſecond time, on the 4th of January, did you ſee Captain Thornhill there?

A. I did,

Q. What part of the houſe did you ſee him in?

A. At the entrance of the houſe.

Q. Was the Priſoner preſent when you ſaw Captain Thornhill?

A. He was not preſent when I firſt met or ſaw Captain Thornhill?

Q. Had you any converſation with Captain Thornhill on this occaſion, and if you had, ſtate the purport of it;

A. The Captain expreſſed his uneaſineſs at the ſituation of Colonel Showers, at the ſame time conſidered his going out with Mr. O'Halloran as a thing unavoidable, although he was convinced of the innocence of the Priſoner.

Q. Did Captain Thornhill ever inform you, that he uſed his utmoſt endeavours to prevail on the Priſoner to meet Mr. O'Halloran without effect?

A. He did, in a ſubſequent interview, at his own houſe the following day; he alſo ſaid, that if it was not on account of his family, he would rather ſee the Priſoner weltering in his blood, than that he, ſhould have acted in a manner ſo unworthy an officer and a gentleman.

Queſtions

Queſtions by the Court.

A. When the Priſoner told you, in the fourth interview with him, on Wedneſday evening, the 5th of January, that he would fix the time of meeting Mr. O'Halloran in three or four days, or as ſoon as he could, did it occur to you to aſk him to reconcile ſuch a propoſal to the terms of the note you had but a little before received from him, wherein he ſaid, he was ready to meet Mr. O'Halloran when and where he pleaſed, and in conſequence of which you had this fourth time called upon him?

A. To the beſt of my recollection I obſerved, that it was very extraordinary that, after having agreed to meet Mr. O'Halloran when and where he pleaſed, he would require an additional time of three or four days.

Q. Did it appear to you that the Priſoner, by mentioning that he had been diſappointed in his friend, meant thereby to account for his requiring three or four days ſo ſoon after writing that he was ready to meet Mr. Halloran when and where he pleaſed?

A. The requiſition of three or four days was for obtaining time to procure another friend, in conſequence of which it was, that I made the offer of carrying a letter with me in the carriage to any perſon in Calcutta he might chuſe to apply to, or elſe to procure him a gentleman to attend him.

Q. How

Q. How came you not to inform Mr. O'Halloran, when you ſaw him on the morning of the 7th of January, of ſo material a circumſtance as that of your having received a letter from the Priſoner the preceding evening, which you had returned unopened?

A. The ſame reaſon which induced me to return the Priſoner's letter unopened, occaſioned my not taking notice of the circumſtance to Mr. O'Halloran.

Q. Did the Priſoner, during the viſit you made him, on Tueſday morning, the 4th of January, for the purpoſe of reading Mr. O'Halloran's letter to him, aſk you if you had received a letter from him that morning?

A. Yes, he did.

Queſtions by the Judge Advocate.

Q. What anſwer did you make him?

A. That I had not received my letter from him that morning.

Q. Did he make any remark on your reply that you had not received a letter from him that morning?

A. I do not recollect clearly, but remember the Priſoner made a ſecond enquiry of his ſervant who had carried that letter.

Queſtions by the Priſoner.

Q. Did not you aſk me the purport of that letter, and did not I begin to recite it to you?

A. Yes.

Q. Did

Q. Did you ſhew or expreſs a diſinclination to hear it?

A. On the contrary I did hear it.

A. What was the purport of that letter as I ſtated it to you?

A. That you had written out to Mr. Greene, and had laid carriages for him.

Q. Did you write a letter to Lieutenant Greene, on Wedneſday evening, the 5th of January, acquainting him, that you underſtood Colonel Showers had either applied or meant to apply to him to be his ſecond, and preſſed his compliance with his requeſt?

A. I wrote a letter to that effect, by deſire of the proſecutor, between ſeven and eight o'clock in the evening?

Q. When did you receive Mr. Greene's anſwer?

A. The next day, Thurſday, the 6th of January, immediately on my return from Colonel Showers.

Q. Do you ſpeak poſitive to my requiring on Wedneſday evening three or four days time, or only to the beſt of your recollection?

A. With regard to the time required I am poſitive.

Queſtions by the Court.

Q. Did you give the Priſoner any reaſon to expect on Wedneſday evening. the 5th of January, a compliance with his requeſt for three or four days time?

A. I

A. I do not conceive that any part of what I ſaid to him could reaſonably give ſuch an expectation.

Q. Did you not give him reaſons to expect he would be allowed ſome ſpecific time?

A. I ſhould conceive that my converſation could not lead him to expect that I would wait longer than the next morning.

The evidence withdrawing, Lieut. O'Halloran was called into Court, and further examined.

Queſtions by the Court.

Q. Did you ſee Mr. Greene's anſwer to Mr. Anbury's note of Wedneſday evening, and when did you firſt ſee it?

A. About ſun-riſing on Thurſday morning, the 6th of January.

Queſtions by the Priſoner.

Q. As you underſtood that I applied or meant to apply to Mr. Greene, on the evening of the 5th of January, and as you muſt have known that Mr. Greene could not be reaſonably expected from Dum-Dum till next day, what reaſon had you for precipitating matters with me ſo early the following day, Thurſday the 6th?

A. I imagined, finding from Mr. Greene's letter, that the Priſoner had not applied to Mr. Greene, and alſo finding that Mr. Anbury had not heard from him on Thurſday morning, agreeably to promiſe, that he, the Priſoner, never had any

intention

intention whatever of meeting meeting me, but was delaying, in order that the Sheriff's officers might have time to ſeize my perſon.

Q. Did you communicate to Mr. Anbury, (before you ſent him to me on Thurſday morning, to read your letter) the anſwer of Mr. Greene, to his note to that gentleman of the preceding evening?

A. I do not recollect whether I did or not, but it was a circumſtance well known to Mr. Stretle.

Queſtions by the Court.

Q. Did you empower Mr. Anbury, at the time you ſent him to read your letter of Thurſday the 6th of January to the Priſoner, to receive from the Priſoner, ſubſequent to your reading that letter, an appointment to meet you, or was that meaſure conſidered by you as a concluſion to the buſineſs between you?

A. I fully empowered Mr. Anbury, on that occaſion, to receive ſuch appointment from the Priſoner; and deſired him at the ſame time to ſpecify to the Priſoner, that if he did not notice the letter, I ſhould as a concluſion to the buſineſs, follow it up by a court martial.

Q. At what time did Mr. Anbury return to you, after reading the letter to the Priſoner?

A. I believe it muſt have been about half after two in the afternoon.

Q. After Mr. Anbury had returned from Colonel Showers's gardens, and made you acquainted with the reſult of the interview, did you conceive

all propoſitions from Colonel Showers, for the purpoſe of fixing time and place to be admiſſable?

A. I conſidered them as totally inadmiſſable after writing to the Adjutant General, which was within half an hour after Mr. Anbury's return to me.

The evidence on the part of the Priſoner being cloſed here, and the Court wiſhing, on account of the diffuſeneſs of the examinations at large, a ſummary of the whole to be prepared by the Judge Advocate, as well as a copy of the minutes of evidence, and of the ſummary to be furniſhed, the Priſoner adjourned for theſe purpoſes, to ten o'clock on the morning of Tueſday next, the 15th of February 1791.

At an European General Court Martial held at Fort William, purſuant to adjournment, on Tueſday the 15th of February 1791.

Preſent as before.

The Priſoner being brought into Court, the Sheriff's order was produced as uſual.

The Acting Judge Advocate General addreſſed the Court as follows:

JUDGE

JUDGE ADVOCATE GENERAL's SUMMARY.

Mr. Preſident and Gentlemen,

Although in obedience to your commands, I am now to deliver a ſummary of the evidence given on the preſent trial; yet, I ſhould indirectly arraign the merit of your proceedings, and act in contradiction to my own ſenſe, were I, after the ſcrutanizinging attention, the unwearied patience, and the ſtrict impartiality which you have manifeſted in the courſe of them, to deem either a very detailed recapitulation of the depoſitions, or many remarks upon them neceſſary, previous to your paſſing judgment; indeed, had not your ſolicitude to inveſtigate the truth, *and laudable deſire to aſſiſt the Priſoner in his defence*, unavoidably rendered the examinations ſomewhat deſultory, by obliging you to depart occaſionally from the ſimple form of enquiry uſually purſued in military trials, but not always obſervable in complicated caſes like the preſent, a bare peruſal of the minutes of evidence would have abundantly anſwered every purpoſe of juſtice: But disjointed as the evidence is—as it now ſtands on your proceedings, it nevertheleſs would appear to be as complete as the nature of the caſe would admit: nothing more, therefore, is required, than to bring theſe ſcattered parts of it together, which bear an obvious relation to each other, and to arrange the whole acording to the order of time: In performing this taſk, I ſhall of courſe, with the view of compreſſing my ſummary, as much as poſſible, confine myſelf to material facts and cir-

cumſtances, and refrain altogether from offering any opinions of my own; being well aware, that ſuch a practice is at once extra-official and diſreſpectful to thoſe whoſe excluſe province it is to judge.

Although I had conformably to uſage, confined the proof of the charge exhibited againſt the Priſoner, within as narrow limits as poſſible, yet when he came upon his defence, he contended *that this ſtrict limitation of the charge in point of time and circumſtances, would eſſentially operate to his diſadvantage, and therefore required that his conduct in reſpect to the paſſiveneſs imputed to him on the occaſion, might be enquired into as far back as the 4th of January, when he was firſt called on by the Proſecutor*; the charge having aſſumed, that the Priſoner was deficient in the ſpirit neceſſary to the character of on officer and a gentleman; and the Priſoner maintaining that this ſerious imputation reſted chiefly on the *miſcarriage of certain letters* which had been written, and the miſapprehenſion of certain converſations which had taken place *prior to the time from which I had ſet out* in proving the charge. The Court, very juſtly determined to go into the enquiry, which he ſolicited, ſince a contrary reſolution would have been directly repugnant to principles of equity, on which the limitation of all crimes is founded. The Court, however, could not agree to the Priſoner's endeavouring to eſtabliſh the point which he propoſed to eſtabliſh, by taking up the affair as early as the 4th of January, without permitting the Proſecutor at the ſame time to overturn if he could, the *new facts* ſet up by

the

the Priſoner this having been accordingly allowed, it becomes proper for me, in ſtating the evidence on the part of the proſecution, to begin with Mr. Anbury's firſt viſit to Colonel Showers, on Tueſday the 4th of January; there is evidence before the Court touching certain occurrences on the 3d of January, but I ſhall ſay nothing on this head to which that evidence relates, till towards the cloſe of my ſummary, when I mean to bring under one point of view, all that reſpects the warrants taken out by Mrs. Showers, againſt Lieutenant O'Halloran.

Mr. Anbury and the Priſoner had five interviews at different times, between the morning of Tueſday the 4th, and the morning of Thurſday the 6th of January; I will recapitulate the circumſtances which either occurred at, or aroſe out of each of theſe ſeveral interviews, ſtating in the firſt place, the facts that appear in ſupport of the proſecution, and in the next, ſuch as tend to explain, palliate, or vindicate the conduct of the Priſoner. By thus immediately contraſting the evidence adduced on either ſide, in each diſtinct ſtage of the trial, the Court will obtain a cloſer view of the whole, and their memory perhaps, be more ſtrongly impreſſed, than if it were firſt to go through all the evidence on the part of the proſecution, and to coclude with all the evidence in behalf of the Priſoner.

Mr. Anbury's firſt meſſage.

Mr. Anbury depoſed, that he was empowered by Lieutenant O'Halloran, to carry a meſſage to the Priſoner, on Tueſday morning the 4th of January

nuary, the purport of which, was to require reparation of the Priſoner, for the wrongs which his friend had ſuſtained from him. This meſſage was accordingly delivered to the Priſoner by Mr. Anbury, who however, received no definite anſwer at that time; all that he would appear to have obtained from the Priſoner on this occaſion, was that he ſhould hear from him in the courſe of the day, which drew from Mr. Anbury an intimation that if he did not hear from the Priſoner by 4 o'clock in the afternoon, he ſhould again wait on him; Colonel Showers, ſtates that agreeably to his promiſe, he wrote a note to Mr. Anbury, after that gentleman's departure from his houſe, informing him he would certainly do every thing Mr. O'Halloran wiſhed, but that having a great deal to do, he ſhould of courſe require a little time; no ſuch note however, was received by the witneſs, who not hearing from the Priſoner according to promiſe, waited on him again, about 5 o'clock in the afternoon of the next day, viz. Tueſday the 4th. of January.

Mr. Anbury's ſecond meſſage.

On applying for an anſwer to the meſſage he had delivered in the morning, he was told by the Priſoner, "he would not go out with Mr. O'Halloran by God, he would not, but that he would if the Witneſs choſe, fight him immediately." Mr. Anbury received this anſwer in the garden of the Priſoner's houſe, but not as he believed in the hearing of any other perſon. Mr. O'Halloran has depoſed,

that

that Mr. Anbury upon returning to report the reſult of the ſecond viſit to Colonel Showers, informed him, that he had not been able to obtain from him any ſatisfactory or coherent anſwer to his meſſage. The Priſoner accounts for his conduct in this ſecond interview with Mr. Anbury, by ſtating that he was angry at being troubled with a viſit from the witneſs, ſo ſoon after having given a reply which he had judged quite proper and ſufficient, alluding to the note he had written, and which he thought fully ſatisfactory for that day, but which note Mr. Anbury had not received.

Mr. Anbury's third meſſage.

This Witneſs waited on the Priſoner for the third time on Wedneſday morning between Seven and Eight o'clock; the object of the viſit being the ſame as before, the Priſoner on this occaſion, informed him, that he required ſome time for ſettleing his affairs, and for getting a friend to attend him, and that he ſhould hear from him in the courſe of the day; being further examined to the iſſue of the converſation between himſelf and the Priſoner in this third interview, he depoſed that the Priſoner had expreſsly declared he would not meet Mr. O'Halloran. This declaration is ſtated by the Witneſs, as having proceeded from his obſerving to the Priſoner, that his conduct in the buſineſs appeared to him, Mr. Anbury, as evaſive, and from his calling upon him to come to ſome poſitive determinaton. *Mr. O'Halloran* has depoſed that the

reſult

reſult of this third meſſage to Colonel Showers, was an abſolute refuſal on the part of the letter to meet him. He ſpoke of courſe, from his recollection of what had been communicated to him by Mr. Anbury.

The Priſoner ſtates, that Mr. Anbury's third viſit to him was early on Wedneſday morning the 5th of January, and before he had riſen from bed. He confeſſes that he was a good deal vexed at being diſturbed at ſuch improper hours, and that on this account he determined not to give Mr. Anbury at that moment a ſatisfactory anſwer. The Priſoner would appear to have thought he had given Mr. Anbury ſome reaſon on this occaſion to imagine that it was his reſolution not to meet Mr. O'Halloran, for he tells you, that upon Mr. Anbury's leaving him, he deſired that gentleman not to underſtand him as refuſing to meet Mr. O'Halloran, and that, to prevent any miſconſtruction of his meaning by Mr. Anbury, he wrote a note before breakfaſt to the ſame effect. The note alluded to by the Priſoner, has been produced, and appears to have been received by Mr. Anbury at half paſt ten o'clock on Wedneſday morning the 5th of January, the words of it are theſe.

"SIR,

"I have to requeſt you will not underſtand my anſwer to-day as refuſing to meet Mr. O'Halloran; I ſaid I could not for particular reaſons *yet*

as

as I have things of moment to do, which will of courſe take up ſome time."

The Priſoner goes on to ſtate, that after diſpatching this note, and ſettling ſome very particular buſineſs, he, exactly at half paſt eleven o'clock in the forenoon of the ſame day, viz. Wedneſday the 5th of January, wrote the following note to Mr. Anbury,

"SIR,

"Having nearly ſettled the buſineſs which occaſioned the delay, I am ready to meet Mr. O'Halloran when and where he pleaſes."

This note was incloſed by the Priſoner in the following one to Lieutenant Gaſcoigne.

"My Dear Gascoigne,

"Incloſed is a letter to Mr. Anbury, which I ſend open for your peruſal, after which ſeal it and deliver it with your own hands; and I have to beg the favour of your being my ſecond on the occaſion."

It appears from Mr. Gaſcoigne, that he received both theſe notes; that he received the one addreſſed to Mr. Anbury, and forwarded it by one of his ſervants to that gentleman about noon of Wedneſday the 5th of January, and that he wrote the following anſwer to the Priſoner's note himſelf.

"DEAR SHOWERS,

"You muſt excuſe my not complying with your, requeſt, as being an office in which I wiſh to have no concern whatever."

This note is dated Wedneſday noon, January, 5, 1791.

But Lieutenant Gaſcoigne has depoſed, that he did not actually diſpatch it till about an hour after; the Priſoner affirms, that he did not receive it till about ſix o'clock in the evening.

Mr. Anbury's fourth meſſage.

Mr. Anbury did not receive the letter forwarded to him by Mr. Gaſcoigne till about five o'clock in the afternoon of Wedneſday the 5th of July; immediately on the receipt of it, he ſet out for Colonel Showers's, where he arrived between ſix and ſeven o'clock in the evening. The Witneſs appears to have underſtood, previous to this fourth viſit to Colonel Showers, that Mr. Gaſcoigne had refuſed to officiate as the Priſoner's ſecond, and to have engaged on this account, and for the purpoſe of preventing further delay, a friend of his own was to act in that character for the Priſoner; when Colonel Showers therefore informed him, that he had been diſappointed in the attendance of his friend, (alluding to the refuſal to him by Mr. Gaſcoigne) and talked of ſupplying his place in three or four days,

Mr.

Mr. Anbury told him, that he would either carry a letter for him to any perſon he might chuſe to apply to on the occaſion, in Calcutta, or could, he believed, if he judged it neceſſary, provide him with a gentleman for the purpoſe. The Priſoner declined availing himſelf of Mr. Anbury's offer, in either of theſe reſpects, ſaying, either that he had written or would write to a friend on the occaſion. The Witneſs urged the Priſoner to bring the matter to as ſpeedy concluſion as poſſible; ſince otherwiſe the conſequence might be more ſerious to him than he was aware of. The Priſoner promiſed, that the Witneſs ſhould hear from him the following morning, Thurſday the 6th of January, as ſoon as he ſhould receive an anſwer from the friend to whom he had written, or was to write. Mr. Halloran in mentioning the reſult of this fourth viſit to Colonel Showers, has depoſed, that Mr. Anbury returning from the Priſoner's houſe, informed him, that he could not bring the Priſoner to any determination whatever; that his offer of a gentleman to attend him to the field, had been declined; but that the Priſoner had told him, he would very early next morning, Thurſday the 6th of January, let him know who the perſon was that he had pitched on for the purpoſe, meaning the attending him to the field.

Colonel Showers ſtates, that about ten minutes after his receipt of Mr. Gaſcoigne's note, declining to be his ſecond, Mr. Anbury made his ap-

pearance, when he mentioned to that gentleman, the diſappointment he had juſt experienced, in Mr. Gaſcoigne declining to comply with the requeſt he had made to him; to Mr. Anbury's propoſal to carry a note from him to any perſon he might wiſh to attend him, the Priſoner, ſays, he replied, that having been diſappointed in the perſon who he had thought would not refuſe him, it really required ſome conſideration to fix on another; the buſineſs being of that delicate nature, that none but the moſt intimate friend or relation would engage in it: the priſoner further affirms, that he would fix on a proper perſon, to make the neceſſary application to, and let him know the reſult the following morning early.

The Priſoner goes on to ſtate, that after Mr. Anbury had left him, he requeſted of Mrs. Showers to write to Mr. Robert Greene, at Dum-Dum, to come to town without delay, and that he ſent his phaeton half way to expedite his arrival. His view in not writing to Mr. Greene himſelf was, he ſays, the preventing either that gentleman or his family from ſuſpecting the nature of the buſineſs, for which his preſence was required. The letter written by Mrs. Showers on this occaſion has been produced—It is dated January the 6th; but Mr. Greene did not receive it till the following morning, and not till nine o'clock. The letter barely requeſted of Mr. Greene to come and ſtay with the writer for two or three

days;

days; but Mr. Greene had received the preceding evening, while at ſupper, a note from Mr. Anbury, intimating to him, that it was the Priſoner's intention to requeſt of him to be his ſecond; Mr. Greene therefore combining the circumſtance of Mrs. Showers's requeſt, that he would come to town, with the information he had received over night from Mr. Anhury, might reaſonably enough conclude, that Mrs. Showers's letter was partly deſigned to bring him to town, to the end that Colonel Showers might have an opportunity of ſoliciting him perſonally to be his ſecond; Mr. Greene had accordingly admitted, that *he had an idea* that ſuch might have been the caſe.

But whatever Mr. Greene might think on the occaſion, he did not think it proper to comply with the requeſt of Mrs. Showers. His anſwer to her letter, excuſing himſelf from coming, has been produced, appears to have been diſpatched from Dum Dum, before three in the afternoon of Thurſday the 6th of January.—It does not appear in the evidence when this anſwer of Mr. Greene was received by Mrs. Showers, nor has the Priſoner touched upon this point in his narrative. It is pretty certain however, that it could not have been received at the time when Mr. O'Halloran's letter of Tueſday the 6th of January was read to Colonel Showers by Mr. Anbury. The Priſoner's aſſertion, that he ſent his phaeton half way to Dum-Dum, to expedite Mr. Greene's arrival in town, has not been queſtioned

queſtioned, I believe, by the Proſeſutor; Mr. Greene has depoſed on this head, that he underſtood from the ſervant, who brought him Mrs. Showers's letter, that a carriage was waiting on the Dum-Dum road to convey him to the Priſoner's garden-houſe.

The Priſoner in relating the meaſures taken by him, in conſequence of Mr. Anbury's fourth viſit, on Wedneſday evening, the 5th of January, proceeds to ſtate, that early the next morning, Thurſday the 6th of January, he wrote to Mr. Anbury to the following purport, in purſuance of the promiſe given by him to that gentleman over night.

"SIR,

"I have wrote to Dum-Dum for my friend, and expect him here ſoon, having laid a carriage on the road to expedite his arrival, and will be glad to ſee you here in the evening, to meet him."

It does not appear in evidence that the Priſoner actually wrote a note to this effect, on Thurſday morning, the 6th of January, to Mr. Anbury. It is proved however, that Mr. Gaſcoigne received, in the forenoon of that day, a letter from the Priſoner, accompanied by one addreſſed to Mr. Anbury, that he was requeſted by the the Priſoner to forward the letter, and that he accordingly diſpatched it by one of his ſervants immediately upon his receipt of it. Mr. Gaſcoigne could not ſpeak preciſely to the hour

of

of his receiving theſe notes, and therefore only depoſed generally, that it was before noon; as to the contents of the Priſoner's letter to Mr. Anbury Mr. Gaſcoigne could not ſpeak at all, ſince though the former letter had been ſent to him open for his peruſal, this laſt was ſent to him ſealed. It was the miſcarriage of theſe notes to Mr. Anbury, whom Mr. Gaſcoigne's ſervant charged with the delivery of it was not able to find, that occaſioned, as the Priſoner ſtates, that gentleman's fifth and laſt viſit to him, about noon on Thurſday the 6th of January.

It is upon the conduct of the Priſoner during this viſit, and during the period which intervened between the viſit and arreſt, that the Court is to decide. Many facts, it is true, are in evidence, which precede this laſt viſit in order of time, but ſuch facts will be conſidered by the Court, ſo far as they may ſerve to explain the conduct of the Priſoner on the occaſion which gave immediate riſe to the charge exhibited againſt him; whether they tend to criminate or exculpate the Priſoner, their importance is conſiderable; and as the admiſſion of them places the Proſecutor and the Priſoner at fair iſſue, neither party can object to their carrying due weight in the moment of your deciſion.

Mr. Anbury's fifth and laſt meſſage.

Mr. Anbury appears to have remained at home till about ten o'clock on Thurſday morning the 6th of

of January, in expectation of the Priſoner's promiſed meſſage, which however, he did not receive: it was about half after ten, when he received from Lieutenant O'Halloran, the letter which he was commiſſioned by that gentleman to read to the Priſoner: after receiving this letter, he proceeded, accompanied by Mr. Strettle, to the Priſoner's houſe, where he arrived about half after eleven.

Mr. Strettle has depoſed, that upon entering the hall, Colonel Showers walked up to them; when Mr. Anbury telling him, that he was come to him for the fourth (he ought to have ſaid the fifth) and the laſt time; and receiving no reply, aſked the Priſoner, whether he had any particular remark to make to him. The Priſoner, with ſeeming indifference and eaſe of manner, as Mr. Strettle ſays, avoided replying to Mr. Anbury's queſtion, and made a motion as if he intended to draw them with him into a private room; upon this Mr. Anbury obſerved to Colonel Showers, that the nature of his buſineſs did not require any privacy, as he had come to him for the purpoſe of reading a letter addreſſed to him by Mr. O'Halloran. The letter was accordingly read to the Priſoner, by Mr. Anbury, in an audible voice; the Priſoner appears, according to Mr. Strettle's account, to have betrayed ſome confuſion on hearing the letter; and both this Witneſs and Mr. Anbury agree in ſtating, that he exclaimed once or twice upon the occaſion, *that it was very extraordinary, or ſtrange!* Mr. Anbury then

then aſking him whether he had received any letter from him that morning, namely, the morning of the 6th of January, and alluding to the letter which appears to be ſent to Mr. Gaſcoigne, for the purpoſe of being forwarded to Mr. Anbury, but which letter had not reached Mr. Anbury. Mr. Anbury replying, that he had not received any letter from him that morning, Colonel Showers, according to Mr. Strettle's depoſition, called out with a great degree of apparent ſurpriſe, *Koonhai, or, Who's there?* and, as the Witneſs ſuppoſed, who had carried the letter which he had given that morning. Mr. Anbury has alſo depoſed to this point, that the Priſoner enquired of him on this occaſion, whether he had received a letter from him that morning; that he replied, he had not; and that the Priſoner upon his, the witneſs, making this anſwer, made ſome enquiry among his ſervants, reſpecting the letter in queſtion.

Mr. Strettle and Mr. Anbury further agree in ſtating, that the latter aſked the Priſoner the purport of the letter about which he was enquiring, and that the Priſoner ſaid in reply, that it informed him, Mr. Anbury, of his having written to Mr. Greene, and of his having laid a carriage, or horſes for him.

Mr. Anbury and Mr. Strettle alſo agree in ſtating, that the Priſoner was informed by Mr. Anbury, that whatever ſteps he might think it neceſſary to adopt on the occaſion ſhould be

taken by him immediately, as it was Mr. O'Halloran's determination to loſe no time in bringing him to a Court Martial: The terms of their depoſitions on this point differ in a ſlight degree, but their ſenſe is preciſely the ſame.

Mr. Anbury has informed the Court, that the Priſoner heard the letter read to him, with *tame ſubmiſſion and patience*; Mr. Strettle has ſaid, that he allowed it to be read to him with the *utmoſt paſſiveneſs, apathy, and patience.* The original letter in queſtion has been produced, ſo that the *ſtrict terms* of the charge, which is founded on the Priſoner's having *patiently ſuffered* and *tamely ſubmitted* to the communication of the contents of that letter would appear to be ſufficiently eſtabliſhed.

But the conduct which the Witneſſes conſtrued into a determination of the Priſoner to decline meeting Mr. O'Halloran, and which is alledged in the charge under the words, "tamely ſubmitting and patiently ſuffering," is ſtated by the Priſoner himſelf as proceeding from a very different ſource, namely, ſurpriſe; which was occaſioned by his receiving ſuch a viſit, and hearing ſuch a letter, read after the note which he had written to Mr. Anbury in the morning; the ſurpriſe would appear to have been manifeſted by the Priſoner in the exclamation of "It is very extraordinary, it is very ſtrange!" depoſed to both by Mr. Anbury and Mr. Strettle. The Priſoner admits, that his aſtoniſhment on the occaſion,

occaſion, joined to the apprehenſion and ſuſpicion which the preſence of a lawyer raiſed in his mind, prevented him from giving a reply: he further admits, that Mr. Anbury did talk about a Court Martial, and deſired him not to wonder at any meaſures that Mr. O'Halloran might reſort to; but he denies having any recollection of being told, that any ſteps he had to take muſt be taken immediately, as otherwiſe the opportunity would be loſt. It is proper to obſerve, however, that the warning here alluded to, is a point to which both Mr. Anbury and Mr. Strettle have depoſed in the moſt unequivocal terms.

The Priſoner having been told by Mr. Anbury in the courſe of this laſt viſit, that he had not received the letter which had been ſent him by Colonel Showers in the morning, wrote a note to Mr. Gaſcoigne, requiring to know, whether he had forwarded the letter in queſtion to Mr. Anbury; Mrs. Showers appears to have written to Mr. Gaſcoigne to the ſame effect. This gentleman received both notes together about a quarter of an hour before ſun-ſet, on Thurſday the 6th of January; though the Priſoner would appear to think that he might have received them between three and four o'clock of that day. Mr. Gaſcoigne immediately upon the receipt of theſe notes proceeded to the Priſoner's houſe, and there returned to him the letter the Priſoner had ſent to him on the forenoon, for the purpoſe of being

forwarded to Mr. Anbury, but which the Witneſs's ſervant, unable to find Mr. Anbury, had brought back to his maſter; Mr. Gaſcoigne at the ſame time that he informed the Priſoner of the cauſe of the letters not being returned, deſired to be excuſed forwarding any more letters to Mr. Anbury; the Priſoner replied, *it was of no conſequence*, which the Witneſs referred to the circumſtance of the letters being returned, and not to his declining any further concern in the buſineſs. It is not perhaps material to which point theſe are referred, for whether the Priſoner had mentally determined to addreſs another letter to Mr. Anbury immediately, (which he actually did ſoon after Mr. Gaſcoigne's departure) or had made up his mind to diſpenſe with the intermediate agency of any other perſon, the words in queſtion would be equally ſuited; poſſibly on either occaſions Mr. Gaſcoigne's would appear to have received an impreſſion of the Priſoner's indifference to the miſcarriage of the letter, from the coolneſs with which he received it back, and from his having manifeſted no diſpleaſure or chagrine at the diſarpointment; it is for the Court to conſider, after combining together whatever can throw a light on this point, what weight is due to this idea of Mr. Gaſcoigne's.

Whether or not the Priſoner, upon receiving back from Mr. Gaſcoigne the letter he had ſent him in the morning for Mr. Anbury, reſolved in his own mind to write another to the latter gentleman,

tleman, it is certain, as I ſaid before, that he did do ſo very ſoon after Mr. Gaſcoigne's departure from his houſe. The letter ſaid to have been written on this occaſion, has been before the Court; but as the Priſoner did not poſſeſs the means of indentifying it, or of proving that the words contained in that letter which he ſent to Mr. Anbury on Thurſday evening, the originality or genuinneſs of the letter produced reſts ſolely upon the credit of the Priſoner; all that is in evidence, reſpecting this letter, is, that there was *a letter* brought to Mr. Anbury about ſeven in the morning of Thurſday the 6th of January, by a man who called himſelf Colonel Showers's ſervant: that Mr. Anbury, before he was aware from whom it had come, broke the ſeal of it, but upon underſtanding that it had been ſent by Colonel Showers, returned it, unopened and unread, incloſed in a note from himſelf to the Priſoner, telling him, that he could not receive any more letters from him.

This note of Mr. Anbury's to the Priſoner, being dated the 5th of January, half paſt ſeven o'clock, P. M. will help the Court to aſcertain what time elapſed between the Priſoner's receiving back the letter which he had diſpatched for Mr. Anbury in the evening.

Mr. Anbury's reaſon for not opening this letter from the Priſoner was, that knowing Mr. O'Halloran had delivered in a charge againſt the Priſoner to the Adjutant General, (which Mr. O'Halloran

O'Halloran had done about three o'clock in the afternoon) he conſidered himſelf as releaſed from all future concern in the buſineſs; the ſame conſideration prevented him from mentioning the circumſtance of his having received ſuch a letter from the Proſecutor when he next ſaw him, which was not till between ten and eleven o'clock the following morning, Friday the 7th of January; Mr. O'Halloran deemed every propoſition which the Priſoner might make for meeting him ſubſequent to his, Mr. O'Halloran's application to have the Priſoner put under an arreſt, (which, as before mentioned, was about four o'clock) as totally inadmiſſible; and accordingly not long after proceeded againſt him at law. This determination of the Proſecutor no doubt aroſe from the firm perſuaſion he entertained of the Priſoner's diſinclination to meet him, and from the idea he had of the Priſoner's having all along trifled with him; but if, for example, the ſuſpicions of the Proſecutor had ſprung from ſuch a circumſtance as the miſcarriage of the Priſoner's letter of Thurſday morning to Mr. Anbury; the Priſoner not being accountable for that accident, could not ſuppoſe himſelf debarred thereby from attempting to remedy the miſchief which had reſulted from it. The judgment of the Court in deciding whether or not the Priſoner's letter of Thurſday evening the 6th of January, ought to have been returned him unopened, (a point of the utmoſt importance in the preſent

trial

trial) will neceſſarily turn in a great degree upon the grounds which the Proſecutor had for the ſuſpicions entertained by him in regard to the Priſoner's aukwardneſs and diſpoſition to triſle with him. The Court will on this occaſion, duly examine the nature of theſe grounds as they appear in evidence, and carefully diſtinguiſh beetwen ſuch as may have had their riſe in miſapprehenſions, and ſuch as may have had a better foundation.

Having gone through all the material parts of the evidence, more immediately relative to the conduct of the Priſoner, in the five ſeveral interviews between him and Mr. Anbury. I am now to ſtate what has been proved, concerning the warrant taken out by Mrs. Showers, againſt Mr. O'Halloran; this was a point of conſiderable importance to the Priſoner, who was open to the ſuſpicions of his having been conſenting to the meaſure of his wife, and accordingly he has taken ſome pains to repel the idea.

This branch of the evidence proceeded from a paſſage in Mr. O'Halloran's depoſition, on the firſt day of his examination, that gentleman having there ſtated, that the Priſoner had refuſed to employ his endeavours to get a warrant or writ drawn, that had been taken out againſt him on Tueſday the 4th of January, meaning the warrant that had been taken out by Mrs. Showers, and which had compelled him to wander about Calcutta in diſguise, to avoid the purſuit of the Sheriff's Officers, Colonel Showers, when he entered upon his defence, felt the neceſſit

ceſſity of overturning an aſſertion ſo pregnant with miſchief to him, to this he has affirmed in his narrative, that Mrs. Showers, combining a declaration made to her by Mr. O'Halloran, the 3d of January, that included a threat to call her huſband to an immediate account, with the appearance of Mr. Anbury early the next morning, Tueſday the 4th January, concluded the latter had brought a challenge to the Priſoner; but the better to aſcertain the point, placed herſelf, while her huſband and Mr. Anbury were engaged in converſation, in ſuch a manner as to overhear enough to confirm her ſuſpicions. The conſequence was, that without communicating her real intentions to the Priſoner, ſhe proceeded to Calcutta, ſaying that ſhe was going to ſee Captain Thornhill; coming into town, ſhe got Captain Thornhill to accompany her to Mr. Johnſon's, where ſwearing the peace againſt Mr. O'Halloran, ſhe obtained the warrant in queſtion.

Lieutenant O'Halloran being examined, touching the threat conveyed by him to Mrs. Showers, on Monday the 3d of January, and to which the Priſoner had alluded in his defence, denied that he had told Mrs. Showers *that day, that he was come to her houſe with a full determination to call her huſband to an immediate account*, but he admitted having ſignified to her on that occaſion, *his intention of acting as the law of honour would dictate.*

It appears, that on Wedneſday morning the 5th of January, Mr. Anbury in his third viſit to the

Priſoner,

Priſoner, to the latter, the inconvenience to which Mr. O'Halloran was ſubjected by the writ, this repreſentation the Priſoner, according to Mr. Anbury, replied that the warrant had been taken out by the women, that it was a mere matter of moonſhine, and that Mr. O'Halloran need be under no apprehenſion on account of it. Colonel Showers ſtatement of what paſſed in this converſation reſpecting the writ, does not differ materially from Mr. Anbury's; Colonel Showers adding only, that on Mr. Anbury.s departure, he made a fruitleſs attempt to prevail on his wife to go the next morning, Thurſday the 6th of January, to Mr. Johnſon's, and withdraw the writ which ſhe had taken out againſt the proſecutor:—It further appears in evidence, that Captain Thornhill, did at the inſtance of the Priſoner apply to Mrs. Showers, between three and four in the afternoon of Thurſday the 6th of January, to withdraw the writ ſhe had taken out againſt Mr. O'Halloran, and that Mrs. Showers in conſequence, promiſed to withdraw it:—This application of Captain Thornhill's, was ſeconded by his ſon, (Mr. Thornhill, junior,) who was not, however, induced to take a part in the buſineſs, by any knowlege of its being the Priſoner's wiſh that the warrant ſhould be withdrawn, but did ſo becauſe he thought Mrs. Shower's compliance on this point, neceſſary to the credit and intereſt of her huſband; but although Mrs. Showers gave both Captain Thornhill and Mr. Thornhill reaſon to believe that ſhe would conform to their wiſhes in

this particular; yet it does not appear that ſhe actually took any ſteps for that purpoſe; on the contrary, Mr. O'Halloran has depoſed, that the writ continued in force till Saturday the 8th of January. While I am upon the evidence of Captain and Mr. Thornhill, it may be proper to ſtate the few points to which their examination went.

Captain Thornhill being aſked by the Priſoner, whether he had not, either when he and Mr. Anbury met at the Priſoner's in the afternoon of Tueſday the 4th of January, or at ſome other time between that meeting, and Thurſday the 6th, told Mr. Anbury, that he had uſed his utmoſt endeavours to prevail on the Priſoner to meet Mr, O'Halloran without effect, replied poſitively in the negative, he admitted, however, that in a converſation which he had with Mr. Anbury, within a day or two after ſeeing this gentleman at Colonel Showers's, he ſaid to him that he would rather have ſeen the Priſoner dead, he being an officer, than that he ſhould not have gone out with Mr. O'Halloran at firſt.

In the firſt converſation he appears to have ſignified to Mr. Anbury, that Colonel Showers did not mean to decline going out, but wiſhed previouſly, to clear up the conduct of Mrs. O'Halloran; Mr. Anbury on the other hand, has depoſed, that Captain Thornhill on the Sunday afternoon, (January 2nd) when they met at Colonel Showers's, expreſſed to him, Mr. A. his uneaſineſs at the ſituation of the Priſoner, whom

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he conſidered as under the neceſſity of ſatisfying Mr. O'Halloran, although he was at the ſame time perſuaded of his innocence, and that on the following day, Wedneſday the 5th of January, Captain Thornhill further informed him at his, Captain Thornhill's own houſe, that he had uſed his utmoſt endeavours to prevail on the Priſoner to meet Mr. O'Halloran, but without ſucceſs, ſaying on the ſame occaſion, that if it were not for his family, he would rather ſee his blood, than that he ſhould have acted in a manner ſo unworthy an officer and a gentleman. The variance between the depoſition of theſe two Witneſſes, on the point of Captain Thornhill's fruitleſs endeavours to prevail on the Priſoner to meet Mr. O'Halloran, is conſiderably evidenced by Captain Thornhill having declared, that he always underſtood from every converſation he had had with the Priſoner, that it was the latter's firm intention to comply with Mr. O'Halloran's demand, and always believed after the firſt, that ſuch was the Priſoner's determination, although he could not recollect the Priſoner's informing him of his having fixed on any particular time for the purpoſe.

I ſhall diſmiſs Captain Thornhill's evidence, with obſerving, that as it would ſeem to admit that there was a heſitation on the part of the Priſoner, to meet Mr. O'Halloran at firſt, or *on the firſt day*, (whatever might be the ſource of ſuch heſitation) the conſideration of this cir-

cumſtance may in ſome degree enable the Court to reconcile the difference ſubſiſting between the depoſitions of this Witneſs, and that of Mr. Anbury, is the only material part upon which theſe gentlemen are not agreed.

Mr. Thornhill, junior, has depoſed, that during a viſit he made to Colonel Showers, in the afternoon of Thurſday the 6th of January, he heard the Priſoner expreſs ſurpriſe at ſuch a letter having been read to him, as that which Mr. Anbury had read to him about noon, after the letter ſent to him, (Mr. A.) by the Priſoner. This Witneſs not knowing perhaps of the letter written to Mr. Anbury by Colonel Showers in the morning, underſtood the Priſoner as alluding on this occaſion to the letter which had been ſent by the Priſoner to Mr. Anbury on the preceding day, Wedneſday the 5th of January, wherein he had told that gentleman, that he was ready to meet Mr. O'Halloran, when and where he pleaſed.

Mr. Thornhill, beſides his confirming the ſurpriſe expreſſed by the Priſoner, on occaſion of the letter read to him by Mr. Anbury, has further depoſed, that he heard the Priſoner mention in the courſe of his viſit to him on Thurſday afternoon, the 6th of January, his expectation of ſeeing Mr. Robert Greene and Mr. Anbury, at his houſe in the evening; a declaration that agrees with what the Priſoner ſtates in his defence, where reciting the contents of his note

of

of Thurſday morning to Mr. Anbury, (which note the Court will recollect, never reached Mr. Anbury,) he appears to have begged of this gentleman to meet his *Dum-Dum* friend, (meaning Mr. Greene,) at his houſe in the evening. The object propoſed from the meeting, at which it would ſeem the two Mr. Thornhills, were to aſſiſt, was according to *Mr. Thornhill's* account, of a twofold nature; for beſides its being intended that Mr. Anbury ſhould on this occaſion fix time and place for the meeting of Mr. O'Halloran and the Priſoner, it was propoſed by the latter, to take this opportunity of reading a paper containing his denial of all that had been imputed *to him* in reſpect to Mrs. O'Halloran.

It is only neceſſary to ſtate two other points ſworn to by Mr. Thornhill, jun.

Being aſked by the Court, whether he had heard the Priſoner account for his not having ſent any meſſage to Mr. O'Halloran, in reply to the letter which had been read to him by Mr. Anbury; he replied, that he underſtood from the Priſoner, that he, the Priſoner, had obſerved to Mr. Anbury, that he was ſo aſtoniſhed as not to know what anſwer to make, and that indeed he did not conceive an anſwer to be neceſſary after the letter which he had written to Mr. Anbury; being further aſked by the Court, whether he knew, or had reaſon to believe, that Colonel Showers had made any arrangement of his affairs in conſequence of his intention to meet Mr. O'Hal-

O'Halloran; he replied, that he had underſtood from the Priſoner himſelf, that he, the Priſoner, had made an arrangement of his affairs, and was prepared from the time he wrote to Mr. Anbury on Wedneſday afternoon the 5th of January, to meet Mr. O'Halloran, expecting every time that Mr. O'Halloran would fix a time for that purpoſe.

I ſhall conclude this obſervation of the evidence which has been delivered on the preſent trial, with a remark ariſing out of the examination of Lieutenant O'Halloran's on Tueſday laſt.

Mr. O'Halloran in accounting for the ſtep which he took on Thurſday forenoon, the 6th of January, by ſending Mr. Anbury for the fifth and laſt time to the Priſoner, ſtated, that one of his inducements for reſorting to that meaſure, ſprung from the diſcovery he had made, that the Priſoner, notwithſtanding what he had given Mr. Anbury reaſon to believe, had not applied to Mr. Greene to be his ſecond. It muſt be admitted that the Proſecutor's concluſions upon this occaſion were far from being unfounded; but on the other hand, the proof of prevarication or evaſion in this inſtance, on the part of the Priſoner, is as from being clearly eſtabliſhed. It is certain indeed, that the Priſoner made ſuch application to Mr. Greene as that in queſtion; Mr. Greene was therefore correct in writing to Mr. Anbury, and Mr. Anbury was equally warranted in believing

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ſo; but if the Court ſhould think proper to give the Priſoner credit for the intention which he profeſſes to have had, in getting Mrs. Showers to write the letter to Mr. Greene that has appeared in evidence, they will alſo probably be of opinion, that though he departed from the ſtrictneſs of fact, in ſaying he had written to *Dum-Dum* for a friend, yet he expected that friend in the courſe of Thurſday.

Having now, I believe, laid before you all that is material or intereſting in the defence ſet up by the Priſoner, as well as the evidence that has been received in the courſe of a long and cloſe inveſtigation, I ſhall no longer treſpaſs on your patience, but conclude with my acknowledgements to you, for the indulgent conſideration which you have had through the preſent trial, for my inexperience in the office I have had the honour to fill.

The Priſoner waving any reply to the Judge Advocate's Summary, the Court was cleared, and proceeded to paſs judgment; when having maturely weighed and conſidered what appeared before them in evidence during the courſe of the proſecution, as well as what the Priſoner hath urged in his defence, they are of opinion, that he is GUILTY of the crime laid to his charge, which being a breach of the XXth article of the 12th ſection of the Articles of War, they do in conſequence

conſequence adjudge him to be diſcharged from the ſervice.

(Signed) G. DEARE, Colonel and Preſident.

(Signed) WILLIAM KIRKPATRICK,
Acting Judge Advocate General.

Tueſday, Feb. 15, 1791.

A true Copy.

(Signed) A. APSLEY, Judge Advocate General.

☞ This copy of the Court Martial, held on Lieut. Col. S. H. Showers, was granted, from the indulgence of the Honourable the Court of Directors, to Mrs. Melian Showers, wife of Colonel Showers, and ſent to her by Mr. Ramſey, Secretary, in conſequence of a general order paſſed in a full Court of the Honourable Court of Directors at the India Houſe, in Leadenhall-ſtreet, London, in the month of June, 1793.

(Signed.) MELIAN SHOWERS.

Copy of Mr. O'Halloran's Letter of Apology to Earl Cornwallis.

MY LORD,

When a man feels conſcious of having, by a *precipitate conduct*, injured another, (if a man of honor, he feels unhappy till he has made every atonement in his power; ſuch, my Lord, is my caſe; I now find I have moſt materially injured

Lieutenant

Lieutenant Colonel Showers, under a conviction that he had deſtroyed my peace and happineſs, but from the *cleareſt and moſt irrefragible proofs* I find him *innocent of the charge* I exhibited againſt him in the Supreme Court. The reluctance *I imagined* he ſhewed to acquieſce in my deſire of a perſonal interview, aroſe from *a different motive* than that which I attributed to him—it aroſe from an earneſt deſire to exonerate Mrs. O'Halloran of the moſt diſtant ſhadow of guilt before he gratified my wiſh. I have dropped the action I commenced againſt him in the Supreme Court of Judicature, and now, as the only reparation in my power, moſt earneſtly entreat your Lordſhip to view his conduct in the moſt favourable point, *for I am alone deſerving of cenſure for my precipitation.* The ſame motive which induced me to proſecute Colonel Showers, under the impreſſion of his having wounded my honour, now impels me to offer every apology in my power.

I ſhall no more intrude on your Lordſhip's time, ſo nobly dedicated to the ſervice of your country.

With every reſpect, &c. &c.

(Signed) JOSEPH O'HALLORAN.

Fort William,
March 1, 1791.

FINIS.

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